

Mr. BARTLETT of Maryland. Mr. Speaker, I came here with a prepared text, but I just could not resist this smiling face. Through the miracle of modern technology, this is the picture of a baby in the womb. It is clearly a baby. It is clearly smiling. It is clearly a human being.

I did not bring with me some other visuals that would show you what is going to happen to Sarah in the partial-birth abortion procedure. She is going to be turned around in her mother's womb, and she is going to be delivered feet first. Not quite delivered. Her head is going to be left in the birth canal and then a trocar is going to be stuck in the back of her head, just where the spinal cord enters the brain. And then her soft brain tissue is going to be sucked out. Obviously, her life expired. This is partial-birth abortion. We are going to ban this hideous procedure today.

IN SUPPORT OF THE BAN ON PARTIAL-BIRTH ABORTIONS

(Mr. BISHOP of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP OF UTAH. Mr. Speaker, often times we do things that are popular in America, but wrong. Today, we are going to do something that is popular with the majority of Americans, but very right.

H.R. 760 does not overturn the Roe v. Wade ruling, but it eliminates a heinous process that was never intended to be protected in the original judgment. When the Supreme Court bypassed the legislative process to make abortions legal 30 years ago, the legislative voice opposing abortion, was never heard. Thus the ruling laid the foundation for the outrage and protest we have today. The people were not allowed to be heard through their elected Representatives.

Many judges who today uphold the Roe v. Wade ruling today, oppose the procedure by which it became reality. By approving the conference report on the partial-birth abortion ban today, we will be enacting legislation the correct way. Both Chambers of Congress will have debated and spoken on this bill, and now the President will have the same opportunity.

The partial-birth abortion ban will be a good law, a righteous law, and it will be enacted the right way. I support this legislation because it protects the most important minority in America: those who cannot speak for themselves. I urge my colleagues to do the same.

IRAQ SUPPLEMENTAL

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, as we debate the Presidential supplemental request for Iraq, one point I do want to

address is the idea of placing some of the requested funds for reconstruction to Iraq in the form of a loan. I believe it is possible to do this considering the enormous assets of this country. I am not persuaded by the argument that we do not want to add to Iraq's current debt of \$200 billion, which is largely owed to France, Germany, and Russia. I find it difficult to believe that if these countries truly want to contribute to the stability of the region, they would not seek to forgive a substantial portion of their debt.

The American families sacrificed much to win the freedom in Iraq. However, we cannot expect Iraq to pay back funds first to those very countries that sat back and let our men and women undertake the risks to win the freedom in Iraq.

SUPPORT THE PARTIAL-BIRTH ABORTION BAN ACT

(Mr. KENNEDY of Minnesota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Minnesota. Mr. Speaker, today this House is set to pass a historic bill, the partial-birth abortion ban. We have passed it several times in the past, but this time is different. In this case, we have a President who has said that he will sign this important bill to end this horrific practice.

I have a nephew that was born a few years ago less than two pounds, and many of the young men and women waiting to be born that have been killed by this procedure have weighed more than Alexander. So I call on my colleagues to rise to this historic moment, pass this important bill, and protect those, the most innocent among us.

IMMIGRANT WORKERS FREEDOM RIDE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, immigrants who come to this country today work hard in the lowest-paying jobs, sometimes working two or three jobs just to support their families. They earn very little money for their efforts, but they bring the richness of hope to our civic and our cultural communities. They pay taxes. They are overwhelmingly honest and hardworking, and they deserve our respect. They wanted only a fair opportunity to share in the prosperity of this great country. They only want what so many others received before them.

Today, because of outdated and unnecessarily burdensome immigration restrictions, many immigrants live their lives underground, cannot get an opportunity for a more formal, legal status and get the opportunity to work for citizenship. Immigration laws and

policies that deny people opportunities for permanence or that leave them exploited should certainly be challenged. We should allow immigrant workers without documentation to seek permanent residency status without being forced to leave the country.

Undocumented workers, who have lived here lawfully and productively, should be eligible for immigrant visas based on family relationships and job skills. They should have the opportunity to become legal permanent residents and eventually U.S. citizens.

I join the gentlewoman from California (Ms. SOLIS) in her support of the Freedom Ride Resolution and urge the President to reform our broken immigration system.

CONFERENCE REPORT ON S. 3, PARTIAL-BIRTH ABORTION BAN ACT OF 2003

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 383 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 383

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. OSE). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate.

Mr. Speaker, on Wednesday the Committee on Rules met and granted a rule to provide for the customary 1 hour of consideration for the Partial-Birth Abortion Ban Conference Report of 2003.

The rule waives all points of order against the conference report to accompany S. 3 and against its consideration. It also provides that the conference report shall be considered as read.

This conference report makes it illegal in the United States for a physician to perform a partial-birth abortion. As an original cosponsor of this legislation, I am very pleased to see this conference report reach the floor of the House of Representatives. I have been waiting for this day to come since 1995.

I am sure that President Bush is eagerly awaiting the opportunity to put an end to this horrific act of human violence by signing this legislation into law. Finally, we have a President in the White House who will not veto this monumental legislation.

I also want to thank my colleagues on the other side of the Rotunda for passing this important legislation. I must say, as a mother and a grandmother, it is astonishing to me that this horrible practice is even remotely legal in America today, and as we will no doubt hear on the floor today, it is practiced all too often in there country.

Partial-birth abortion is the procedure where a pregnant woman's cervix is forcibly dilated over a 3-day period. On the third day, her child is pulled, feet first, through the birth canal until his or her entire body, except for the head, is outside the womb. The head is held inside the womb by the woman's cervix, and while the fetus is stuck in this position, dangling partly out of the woman's body and just a few inches from a completed birth, the abortionist inserts scissors into the base of the baby's skull, and the scissors are opened, creating a hole in the baby's head. The skull is either then crushed with instruments or a suction catheter is inserted into the hole and the baby's brain is suctioned out. Since the head is now small enough to slip through the mother's cervix, the now lifeless body is pulled the rest of the way out of its mother and the baby's corpse is discarded, usually as medical waste.

The vast majority of partial-birth abortions are performed on healthy babies and healthy mothers. Congressional findings have shown that the procedure is not medically necessary and actually poses a significant threat to the mother's health and her future fertility.

This conference report would also punish those who perform the procedure with fines and prison terms of up to 2 years. Husbands or parents of women younger than 18 would be able to sue for damages.

Although language banning this procedure was struck down in the past by the Supreme Court, this new legislation has been tailored to address the Court's concerns. The five-justice majority in *Stenberg v. Carhart* thought that Nebraska's definition of partial-birth abortion was vague and could be construed to cover not only abortions in which the baby is mostly delivered alive before being killed, but also the more common "dilation and evacuation," D & E method. The conference report defines partial-birth abortion as an abortion in which "the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or in the case of breech presentation, any part of the fetal trunk past the naval is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus."

The tighter definition not only clarifies the procedure so that the court will not reject it, it also draws attention to the violence of partial-birth

abortion by describing how far out the baby can be. We have changed the bill, adding findings of fact to overcome constitutional barriers, and I am confident it will survive judicial review.

This is a historic day for the American people. A civilized society cannot tolerate the barbaric nature of the partial-birth abortion procedure. Mr. Speaker, the public wants this bill in overwhelming numbers, believing in their hearts that we as a Nation are better than this. We are a better people. To that end, I urge my colleagues to support the rule and the underlying conference report.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentlewoman from North Carolina for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, it is indeed a historic day for America, for more, I think, than most people in here realize. For the first time in the history of the Republic, the Congress of the United States is poised to outlaw a medical procedure. A majority that wants the government off everybody's backs, wants to preserve privacy, is inserting itself between a woman and her family and her physician.

I wonder what is next. Perhaps they will decide that one cannot have a hysterectomy during child-bearing years, even though one may have some serious disease, or maybe we will outlaw vasectomies. That would be something we could do in here today too. And maybe we would not even like gallbladder operations. Who knows? There may be some reason we would not want to do those. All of them are pretty gruesome to describe.

Mr. Speaker, yesterday was the beginning of a new fiscal year and only three of the 13 bills appropriating funds for the new year have been signed into law. Millions of Americans are unemployed. Jobs continue steadily to disappear. More families living in poverty for the second year in a row, another historic day for America that has not happened before. Tens of millions of families live without any health insurance. The Federal debt is projected to reach \$5 trillion. Thousands of American troops are in Iraq working in dangerous conditions. And instead of addressing these pressing issues, we are once again considering legislation that violates fundamental constitutional rights and threatens women's health.

Three years ago, the United States Supreme Court settled this issue, they thought once and for all, when it struck down similar legislation that banned safe and effective abortion procedures. The Court again confirmed the constitutional foundation of women's reproductive rights as recognized in *Roe v. Wade* and reaffirmed 2 decades later in *Planned Parenthood of South-*

eastern Pennsylvania v. Casey. At the end of their last term, in the *Lawrence v. Texas* decision, the Court relied on the right to privacy that was recognized in *Roe*.

Despite the minor tinkering of the conference committee, S. 3 still suffers from the same constitutional flaws as the Nebraska statute thrown out by the Supreme Court, and this one we hope will meet the same fate. The ban on medical procedures is vague and overbroad and does not contain an exception to perform the procedure when a woman's health is threatened, and it goes so far as to give the father of the fetus the right to sue the woman or the doctor for money damages, even if he is not married to her or if he beats her or rapes her.

Obstetricians and gynecologists say that the term "partial-birth abortion" is not a medical term, and they are right. It is a political creation. We will not find the definition of the procedure that S. 3 seeks to ban in a medical dictionary or textbook. The nonmedical language in S. 3 could cover at least two different kinds of procedures, one of which is the most commonly used abortion procedure. This vague and overbroad definition would create so much confusion in the medical community that doctors would not know which medical procedure might land them in jail, and we should not make our doctors criminals.

S. 3 brazenly seeks to sidestep the Constitution. The Supreme Court has plainly determined that the Constitution requires an exception when the woman's health is endangered. Pages and pages of congressional findings will not change or will not fulfill the constitutional demand to protect a woman's health.

□ 1030

The authors of this bill hope that the Federal courts, most especially the Supreme Court, will defer to these congressional findings and waive this constitutional requirement. But the Court has squarely said that "the power to interpret the Constitution in a case of controversy remains in the judiciary." And the Court has said that simply because Congress makes a conclusion does not necessarily make it so. Just because the findings in the bill assert that there is no medical reason for a health exception does not make that true, and it does not change the demands of the Constitution.

Last June, when the House first considered this bill, Ruth Marcus noted in *The Washington Post* that "just as Clarence Thomas wrote in a different context that, if Congress 'could make a statute constitutional simply by finding that black is white or that freedom is slavery, then judicial review would be an elaborate farce.'"

Despite what politicians may say, the American College of Obstetricians and Gynecologists, the doctors who perform these procedures, say that the procedure this bill seeks to proscribe

"may be the best or most appropriate procedure in a particular circumstance to save the life," I want to emphasize that, "to save the life or preserve the health of a woman," and that "only the physician, in consultation with the patient and based on her circumstances, can make this decision," not the Congress of the United States. We are not physicians here. I think we think we are omnipotent; we are not. Medical professionals in every Federal court in the country that has heard this issue, except for one, all have agreed that these are safe procedures and they may, in fact, be the safest procedure in some circumstances.

This, as I pointed out before, is the first time in the history of this Republic that Congress is banning a specific medical procedure. Physicians, and not politicians and pundits, should provide women and their families with medical advice. Women and their families, not the government, should make these difficult and private and medical decisions.

This bill would deprive doctors of the ability to care for their patients. By outlawing safe and effective medical procedures, Congress would subject women to more dangerous medical procedures, putting their health and their lives in jeopardy. Do we really want to do that? Women deserve the best medical care based on the circumstances of their particular situation. Instead of making abortion more difficult and dangerous, we should pass legislation that helps reduce the need for abortions; but we will not do that, by reducing the number of intended pregnancies. We should increase the funding for title X, and health insurance should cover contraception. It covers Viagra. Why not contraception? Emergency contraception should be more available. And research on other contraceptive methods should be fostered.

So why are we here today considering a rule for an unconstitutional bill? Richard Posner, Chief Justice of the U.S. Court of Appeals of the 7th Circuit who was appointed by President Reagan, gave us the answer when he wrote that the proponents of similar legislation "are concerned with making a statement in an ongoing war for public opinion, though an incidental effect may be to discourage late-term abortions. The statement is that fetal life is more valuable than women's health." Let me say that last sentence again: "The statement is that fetal life is more valuable than women's health." Judge Posner went on, writing that "if a statute burdens constitutional rights and all that can be said on its behalf is that it is the vehicle that legislators have chosen for expressing their hostility to the rights, the burden is undue."

The deliberate actions of the conference committee underscore the real aim of the bill. The majority of the other body passed a version, S. 3, that said, "The decision of the Supreme Court in *Roe v. Wade* was appropriate

and secures an important constitutional right, and such decision should not be overturned." Tuesday evening, the conference committee, along party lines, quickly stripped the *Roe*-supportive language out of the bill. This emphasizes the true purpose of the legislation: targeting a woman's right to privacy, with the hope that a Supreme Court with a new justice or two will weaken or reverse *Roe*. A Washington Post article said it plainly: "The political agenda is clear. Ken Connor, president of the conservative Family Research Council, spelled it out in an e-mail after the Senate voted last March. With this bill," he wrote, "we are beginning to dismantle, brick by brick, the deadly edifice created by *Roe v. Wade*."

As a mother, grandmother, and a long-time advocate for women's health, I strongly believe that this bill is a threat to women's health, and an attempt to whittle away at a woman's constitutional right to her privacy and control of her body. I urge my colleagues to oppose this rule and to oppose S. 3.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 1½ minutes to the gentlewoman from Colorado (Mrs. MUSGRAVE).

(Mrs. MUSGRAVE asked and was given permission to revise and extend her remarks.)

Mrs. MUSGRAVE. Mr. Speaker, few things that we do in this life have significance as we go 10, 20 years down the road; but the work that we are doing today in this Chamber has enormous significance. Partial birth abortion defies logic. I try to imagine how an individual could even come up with this thing that is called euphemistically a "procedure." I am trying to imagine in my mind how a doctor, who is calling on his or her life to be a healer, to extend life for individuals, came up with this procedure. I am trying to imagine how sticking scissors into the brain of a child that is partially born is called a "medical procedure" that is to benefit the life of the mother, the mother whose body is getting ready to birth this child, a woman who is going through all of the things that we have gone through, getting ready to have the child.

It is an important thing in this Nation today that we have acknowledged what this really is, and it is a good day in America when our President will sign the partial-birth abortion ban into law.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, here we are at the end of the fiscal year with important unfinished work for the House of Representatives. Our fiscal year budget is not complete, our sen-

iors do not have a prescription drug benefit, and our local communities still need support in the war against terror, to list only a few of the unfinished pieces of business that we have before us.

Yet, what does the majority decide to bring to the floor? A bill that everyone knows will not pass the muster of the Supreme Court. Because there is no exemption to protect a woman's health, this bill not only fails to meet moral requirements, it fails to meet constitutional requirements.

We have a moral obligation to protect and promote women's health, not endanger it. In fact, our debate should be about measures to reduce the number of unintended pregnancies and ensuring that all pregnant women have affordable access to the care they need so they can deliver healthy babies.

The Supreme Court has been clear. Our laws cannot take away a woman's right to a safe and accepted medical procedure when her health is in danger; and yet the antichoice lobby chooses to once again waste our valuable time pushing legislation that politicizes women's health and chips away at a woman's constitutional right to choose an appropriate lifesaving medical procedure.

As we know, a pregnancy can go tragically wrong in the final stages; and in these unimaginable circumstances, a woman must not be required to risk her health and future fertility by continuing a dangerous pregnancy. I am not a doctor, so I am not going to stand here and pretend that I have the necessary expertise to make medical decisions for my constituents, nor should any Member of the House, nor any Federal agency. Instead, I want every woman in my district and in this Nation to have access to the procedure she and her physician feel are the safest and most appropriate for her particular situation.

Let us be honest. The debate today is not about aborting viable, healthy children. Few late-term abortions occur, and those that do are tragically necessary to save the life or health of the mother. This debate is really about limiting a woman's right to privacy and restricting access to constitutionally protected medical procedures. The American people must know that while the necessary work of the House of Representatives remains undone, we are here debating a bill that makes an unconstitutional attempt to chip away at a woman's right to access for a particular medical procedure.

Mr. Speaker, I urge my colleagues to oppose this rule and oppose this conference report.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Kentucky (Mr. LEWIS).

Mr. LEWIS of Kentucky. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise today to express my support for the conference report on the Partial-Birth Abortion Ban Act

of 2003. For nearly a decade, Congress has attempted to see this legislation become law, and I am pleased that we will again be affirming the message that partial-birth abortion is wrong.

There is overwhelming support in the second district of Kentucky and across the Nation for a ban on partial-birth abortions. Eight versions of a partial-birth abortion ban have passed the House since the 104th Congress. This body also passed multiple overrides of Presidential vetoes on this issue during the Clinton administration. Throughout this time, we have seen numerous State legislatures take similar action and vote to end the savage practice of partial-birth abortions in their States.

There is a clear and consistent mandate throughout the Nation: partial-birth abortion is wrong and must be prohibited by law.

I realize that the issue of abortion is difficult and powerfully divisive for many Americans. There are well-intentioned, intelligent people on both sides of this debate who will continue to disagree. But I am deeply concerned about the value our society places on human life when we tolerate this practice, brutally denying a defenseless, unborn child its right to life. By condoning abortion, and especially the brutal practice and procedure of a partial-birth abortion, our greater human condition is significantly cheapened.

I am pleased that so many of my colleagues are taking a stand and acting in support of this legislation. This conference report demonstrates the bicameral and often bipartisan commitment of lawmakers in the 108th Congress to protect the sanctity of human life by outlawing a procedure that devalues and violently terminates its potential. I am also encouraged knowing that at this time we have an administration that is willing to take positive action and sign this ban into law.

The late Mother Teresa of Calcutta once said, "The greatest destroyer of peace is abortion because if a mother can kill her own child, what is left for me to kill you and you to kill me? There is nothing between." It is time we act strongly and unmistakably and vote once again to preserve life and ban this gruesome, inhuman practice.

Ms. SLAUGHTER. Mr. Speaker, I yield 3½ minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, let us be crystal clear about what this House is doing today. We are making a medical judgment. That ought to be of deep concern to every American who believes that the Federal Government has no business injecting itself into the middle of the doctor-patient relationship. If we pass this partial-birth abortion conference report, elected representatives of the people of the United States, not the medical community, not doctors, not trained persons, will be telling every American woman that she cannot obtain certain medical procedures that are currently legal and available to her. If that does not trou-

ble you, this should: this conference report is patently unconstitutional.

The proponents of this conference report are literally trying to paper over Supreme Court precedent in direct contradiction of the Supreme Court's decision 3 years ago in *Stenberg v. Carhart*. This conference report deliberately excludes an exception for cases in which a woman's health is in jeopardy. Instead, the proponents of this conference report have added dozens of pages of congressional findings that conclude that the prescribed abortion procedure is never medically necessary. The distinguished gentlewoman from New York (Ms. SLAUGHTER) quoted Justice Thomas in saying that that would not work and could not work.

Mr. Speaker, I do not believe that anyone here believes that abortion is a desired outcome to a woman's pregnancy; no one believes that. I think without question that this belief is even stronger when an abortion is obtained in the later stages of pregnancy. However, Mr. Speaker, the fact of the matter is, this legislation, and I have said it before and I will say it again, would not prevent one abortion.

□ 1045

This legislation will not prevent one abortion, not one. Why? Because it leaves in place other procedures. That is because, while it claims to ban a specific medical procedure performed in the most tragic of circumstances, it leaves other means of terminating a pregnancy in place. To that extent, this legislation is without effect.

I would challenge any proponent of this legislation to tell me why it prohibits the termination of a pregnancy. I understand the proponents say it prohibits a procedure, but there will be not one proponent because it will not be medically justifiable to say so, that it precludes the termination of a pregnancy at any stage.

Unfortunately, Mr. Speaker, this House has again missed an important opportunity to seize what common ground exists in this difficult issue. The bipartisan Late-Term Abortion Restriction Act, which failed on this floor, which I co-sponsored this year, addresses the heart of the matter: the termination of pregnancy in the late stages of pregnancy. That legislation would have precluded all late-term abortions by any method except to save the life or protect the health of the mother.

It is clear that the conference report before us is nothing but a veiled attempt to undermine the Supreme Court's landmark ruling in *Roe versus Wade*. It will fail. It will fail in the courts. How else can one explain the conferee's decision to strip out the Senate language reaffirming *Roe*? I hope my colleagues reject this bill.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. BARTLETT).

(Mr. BARTLETT of Maryland asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, I rise today to support the rule and passage of the Partial Birth Abortion Act of 2003. Eliminating the cruel and unusual punishment of partial birth abortion is a step in the right direction for the United States as a civilized society. We would never tolerate such a brutal form of execution for the most heinous criminal. It is right to end this method of killing innocent, unborn children in their mother's womb.

The facts of partial-birth abortion are gruesome, and I will not repeat them. They are humiliating. They are heinous. I am embarrassed in this civilized society to have to describe a procedure that should never be. Ending partial birth abortion will reaffirm the principle in our Declaration of Independence that human beings, that baby smiling in the womb, are endowed by their creator with a right to life.

I thank God for the support of President George W. Bush who will sign this bill into law to end this heinous practice.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentlewoman from New York (Ms. SLAUGHTER) for her leadership, and I rise in strong opposition to this rule and the underlying bill.

Contrary to what proponents have claimed, this bill has nothing to do with late-term abortions or with banning one specific procedure. Instead, this bill bans the safest procedures physicians perform, starting as early as 12 weeks of pregnancy. It also lacks any exception for the health of a woman.

The Supreme Court settled this debate 3 years ago when it struck down a nearly identical Nebraska ban for the same two reasons I mentioned, and the Supreme Court warned that this type of legislation would have, and I quote, "tragic health consequences," end quote.

More women will suffer serious medical complications including infertility, infection, and even death because of your actions today.

The question here is not whether this bill is unconstitutional; the question is, why are you passing an unconstitutional bill that is so dangerous to the health of your wives, daughters and friends?

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes and 10 seconds to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, partial birth abortion is but the tip of an ugly and an unseemly iceberg.

Just below the surface, the surface appeal of choice is a reality almost too horrific and cruel to contemplate, let alone face. Yet we persist in our illusions and denial, ever enabled by clever marketing, biased news reporting, and the cheap sophistry of choice.

Let us be clear. Abortion is child abuse, and it exploits women.

Women deserve better than having their babies stabbed, cut, decapitated, or poisoned. Women deserve non-violent, life-affirming, positive alternatives to abortion.

Thirty years after Roe, the national debate about partial birth abortion has finally pierced the multiple layers of euphemisms and collective denial to reveal child battering in the extreme. The cover-up is over, and the dirty secret concerning abortion methods is finally getting the scrutiny that will usher in reform and protective statutes.

Mr. Speaker, there is nothing compassionate nor benign about stabbing babies in the brain with scissors so their brains can be sucked out. In like manner, there is nothing compassionate or benign about other methods of abortion, like injections of chemical poison that burn and blister or dismemberment by suction machines 20 to 30 times more powerful than household vacuum cleaners.

The loss of children's lives since Roe has been staggering, Mr. Speaker: 44.4 million babies dead. Picture this: Two days ago 56,292 fans packed into Yankee Stadium for the play-offs. The number of children killed since Roe would fill Yankee Stadium to capacity each and every day for 788 days. The sheer number of children destroyed is numbing.

Then there is the terrible toll that abortion imposes on women. A new organization, Mr. Speaker, Silent No More, organized by women who have had abortions, including actress Jennifer O'Neill, shatters the myth that abortion somehow benefits women. "We are the face of women exploited," they say.

Women need real love, genuine compassion, and their voice will ultimately be heard. Mr. Speaker, the cover-up is over.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentlewoman for New York (Ms. SLAUGHTER) for her steadfast work to preserve a woman's right to choose, as this bill does not, and to keep us from endangering that right from the thirteenth week on. And that is what this bill does.

I want to speak to the constitutional issues. I understand where many Americans are on what they think is misnamed partial birth abortion. You know, that is a 1984 gamut, call something what it is not, trying to focus the American people on a viable baby being aborted as it comes out of its mother's womb. My friends, that is not this bill.

This bill is a virtual twin of a bill in Nebraska law that was struck down 3 years ago by the Supreme Court in Stenberg versus Carhart. This is a redux of that unconstitutional law. And though there have been some attempts to fiddle with the bill in those terms, there is not a dime's worth of

difference between this law and the Nebraska law.

Now, the Republicans are not as dumb as they look. They have read the decision. They are not even trying to ban one procedure. They are trying to dip into the second trimester, and, boy, have they done it. And Ms. and Mrs. America do understand that, beginning with the thirteenth week, the procedures most commonly used and understood to be the safest procedures for performing abortions after the thirteenth week would be banned by this bill. In the law we say it is constitutionally vague. That means it is so broad that it goes beyond what might be legal. Of course, this would not be legal because it has no health exception.

The majority is trying to practice medicine without a license. It certainly is not capable of practicing law without a license, because each and every time this and similar bills have been overturned. Worse, there is no health exception. It is as if Roe versus Wade never said that in order to be constitutional there always had to be a health exception. These folks just slide right over that.

I want to leave you with the words of the Supreme Court in Carhart, because you are going to be hearing them again. This is not my Supreme Court, this is a conservative Supreme Court. And it said, "Using this law some present prosecutors and future attorneys general may choose to pursue physicians who use the most commonly used method for performing viability, second trimester abortions. All those who perform abortion procedures using that method must fear prosecution, conviction, and imprisonment. The result is an undue burden upon a woman's right to make an abortion decision. We must quickly find the statute unconstitutional."

It was unconstitutional 3 years ago, my friends. It is unconstitutional today, even if we enact it.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Speaker, today we enter into the final weeks of debate, delay, and continued obstructionism surrounding one of the most corrupt laws ever forced upon this land by the Supreme Court, that of partial birth abortion. This horrific and violent procedure against pre-born American children unbelievably is still the law of this land.

As shown on this diagram, this law allows an abortionist to pull a fully developed baby out of its mother's womb by its feet. This is the law that still allows an abortionist to insert his scissors into the base of a child's brain stem, and this is the law that still allows an abortionist to vacuum out a baby's brains.

They deceive the American people by calling it choice. Hide the true facts and spin it until you are blue in the face, but the days of this Nation having

a law that advocates child abuse and death to pre-born American children may finally have seen its own demise. We are on the verge of eliminating a decrepit and immoral law from the same books that contains our sacred rights and liberties.

As the father of 12 children, I want to teach my children to love this Nation unconditionally, to revere her, to respect her laws and be drawn into complying with the laws of this Nation because her laws represent goodness, because they are filled with integrity, and because we are bound by a moral sense of obligation to abide by them.

Let us love this Nation and hold her laws in esteem by eradicating this disgusting laws from our land. Stop the torture and infanticide of our pre-born American children and our future patriots. Let them have life and finally let us rid ourselves of this evil.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I need really to respond to the previous speaker.

First, Roe v. Wade does not allow abortions after the first trimester without a doctor's permission. These are fetuses in many cases with no brains, with no lungs, who may live for a moment or two. These are not children that are born and run around the room.

It is outrageous to stigmatize women who have had this procedure so that they can protect their fertility system so that maybe they, too, can have 12 children and not have to stop with one. Have a little compassion.

□ 1100

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, this bill is not a serious attempt to save babies. It is a cynical attempt to make political points. Do you know what? There is a dirty little secret about this bill that is starting to get out, and that secret is that this bill does not outlaw late-term abortions. Let me repeat that.

Under this bill, late-term abortions under Federal law, will still be perfectly legal. Why do I say that? Very simply, because this bill only outlaws one late-term abortion procedure, while allowing all others to remain perfectly legal. For 8 years, I have asked on this floor the supporters of this bill to explain why they did not want to put in this bill an outlaw of all late-term abortion procedures like I helped do in the Texas legislature 13 years ago.

I think probably the honest answer to that was given by Ralph Reed a number of years ago when he said, "the partial-birth abortion bill is a silver political bullet." And I think the people in America who should truly be upset about this bill and the effort to pass it for 8 years, are not just the pro-choice people. It should be the genuine, decent pro-life people who in their own heart have been misled to believe that

this bill would actually outlaw late-term abortions. It does not. And that is a dirty little secret that is starting to get out, even in the pro-life community.

In fact, let us go to a statement made just 2 weeks ago by Randall Terry, who is the founder of Operation Rescue, an ardently pro-life organization. This is what Mr. Terry, a pro-life citizen, said, "This bill, if it becomes law, may not save one child's life."

Yes, Mr. Speaker, the dirty little secret is getting out. There is another little secret that is getting out about this bill, and that is that it is absolutely, patently unconstitutional. So those who have pushed this bill have pushed a false promise on their pro-life constituents.

Why is it unconstitutional? It is as clear as the Supreme Court can say. When it puts a decision in italics, I think it is trying to make it a very clear point to those who would read it; but for those who cannot understand it, let me read Justice O'Connor's statement from the *Stenberg v. Carhart* decision in 2000, which outlawed a bill almost exactly like this.

"States may substantially regulate and even prescribe abortion, but any such regulation or prescription must," not maybe, "must contain an exception for instances," and this was in italics, "where it is necessary, in appropriate medical judgment, for the preservation of life or health of the mother."

Well, guess what, unlike the constitutional bill I passed in the Texas legislature 17 years ago abolishing all late-term abortion procedures, but constitutional because we had a health exception, this bill refuses to have a health exception, even when the mother's health is at risk.

This bill is a false promise. It will harm good decent women in this country, and it should be defeated.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in support of the rule and I urge my colleagues to again support the Partial-Birth Abortion Ban Act of 2003.

I am pleased to stand here today on the brink of passage of this critical piece of legislation. In doing so, we reaffirm that partial-birth abortion is a heinous and unnecessary procedure that has already claimed the lives of too many innocent preborn victims.

We already know in statements, such as those of former Surgeon General C. Everett Koop, that a "partial-birth abortion is never medically necessary to protect a mother's health." Why then, Mr. Speaker, is there any question at all that this procedure needs to be banned?

We must stop victimizing the women and children of America through partial-birth abortion.

Mr. Speaker, the insanity of legalized murder will end with the passage of this long-awaited law. I urge my col-

leagues to support the rule and pass the partial-birth abortion ban.

Ms. SLAUGHTER. Mr. Speaker, does the gentlewoman from North Carolina (Mrs. MYRICK) have any further speakers?

Mrs. MYRICK. Mr. Speaker, I have about five more speakers.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Speaker, I rise today in support of what is perhaps one of the most significant pieces of legislation that this House will ever consider. Why so significant? Because this bill will save lives. But even more than that, more than saving lives, it would save the lives of innocent children. And that is why I support the passage on the ban of partial-birth abortion.

This procedure, as some would like to call it, is a cruel, unusual, heinous, inhumane way of murdering our children.

As we pass this bill today, we will be doing so with the support of the American public. We will be doing so with the support of the people back in my State of New Jersey and with some 30 other States as well, who have tried as well to ban this heinous conduct. And the reason why they are supporting us in this endeavor is because they know we must save the lives of this and future generations of the American family.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Speaker, I would like to commend the gentleman from Ohio for introducing this legislation and for his leadership on this, and I want to thank God today that we will finally pass, and send to a President who will sign it, a bill banning a barbaric, brutal procedure for killing unborn babies.

It seems to me having a legal ban on partial-birth abortion just strikes me as a minimal sort of threshold level indication of human decency for our society. To take an unborn baby, induce a partial delivery, kill the baby, then pull it out and discard it, demonstrates such a wanton contempt for human life, it really should be chilling for all of us.

This bill establishes what I see as at least a minimal level of respect for human life; but, frankly, we have got a long way to go. I would like to address the *Roe v. Wade* decision which has come up repeatedly. I think we just need to speak candidly about this decision, Mr. Speaker.

The fact is it is a terrible decision that has resulted in the deaths of millions of unborn babies. But even if the immorality of the decision does not move someone, I would think the contempt for the Constitution that it demonstrates ought to. Because let us face

it, you can read the Constitution. It is written in English, and it is very clear. The Constitution does not guarantee a right to have abortions. A few Supreme Court Justices on the other hand, decided that they would rather be legislators than Justices and so they invented this right. They wrote it in a decision. And unfortunately, as unaccountable legislators, it is now the law of the land. But that is what it is. It is a terrible misreading of the Constitution.

I commend the conferees for striking the reaffirmation of *Roe v. Wade* from the bill that was passed in the other body. I commend them for bringing this bill to the floor today, and I urge my colleagues to support the rule and to support this conference report.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2½ minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, no matter where we stand on the issue of abortion, most Americans agree the brutal and horrific practice of partial-birth abortion in this country must end. I have even had some of the hard-shell pro-death, pro-abortion come up to me in saying that this horrific action ends. They even think it is bad.

In previous Congresses, legislation to ban partial-birth abortion has been thwarted by Presidential veto. This year our President, President Bush, will sign this bill into law, making it the first abortion-limiting law on the books since *Roe v. Wade* was enacted.

This is truly an historic moment and a milestone for the rights of the unborn. This is also an historic time for this Congress. We have listened to the will of our constituents, and we heard them loud and clear. They demand a ban on partial-birth abortion. According to a recent poll conducted earlier this year, 70 percent, 70 percent of Americans favor a law that would make this procedure illegal, except in the case necessary to save the life of the mother.

The outrage over this grotesque practice is nothing new. The American Medical Association has said the partial delivery of a living fetus for the purpose of killing it outside the womb is ethically offensive to most Americans and physicians. It degrades the medical practice and cheapens the value of life.

As a husband and father of four beautiful children, I have a deep respect for the sanctity of life and the miracle of childbirth. I have been at every one of my children's births. Recently, I had a child 8 months ago, and to think that if you could have stopped that head before it came out, but if it slips out you could not kill the child, but to stop the head but to stick a pair of scissors in the back of the skull, suck the brains out and deliver it dead is unimaginable and should not happen in the United States of America or anywhere else in the world.

There is no place in a civilized society for this horrific practice. Today we

take solace in the fact that the nightmare of partial-birth abortion will soon end. I urge my colleagues to vote in favor of this rule and conference report.

Ms. SLAUGHTER. Mr. Speaker, I yield 3½ minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I rise in opposition to the rule and to the underlying bill.

Let us make it clear, the conference report and the bill before us will not prohibit any abortions. Alternative bills which would have outlawed late-term abortions have been rejected by the majority. This bill will not prevent any abortions.

The bill will prohibit a procedure. The abortion can still take place using another procedure, and I am not going to inflame the debate by describing in explicit detail the alternative procedures that may be used.

But I will point out that Nebraska had a law banning the so-called partial-birth abortion procedure. Three years ago the United States Supreme Court held that that law was unconstitutional. The Supreme Court said five times in its majority opinion and other times in concurring opinions, that in order to make a partial-birth abortion ban constitutional, the law must contain a health exception to allow the procedure where it is necessary in appropriate medical judgment for the preservation of life or health of the mother. That is what five Supreme Court Justices said is necessary to make the bill constitutional. All five are still on the Supreme Court.

In that case the Court said, The question before us is whether Nebraska's statute making criminal the performance of a partial-birth abortion violates the Federal Constitution. We conclude it does for at least two independent reasons.

They went on to say that the first reason was that it lacks the exception for the preservation of the health of the mother. The Court said, "Subsequent to viability, the State may, if it chooses, regulate or even prescribe abortion," and then they put this in italics, "except where as necessary in appropriate medical judgment for the preservation of life or health of the mother."

It goes on to say that the governing standard requires an exception, now listen up, because now they put it in quotes, "where it is necessary in the appropriate medical judgment, for the preservation of the life or health of the mother."

The Court continues talking about the health exception by saying that "our cases have repeatedly invalidated statutes that in the process of regulating the methods of abortion impose significant health risks." They make it clear that risking a woman's health is the same, whether it happens to arise from regulating a particular method of abortion or from barring abortion entirely.

Just in case we did not get it, the Court said again, "By no means must the State grant physicians unfettered discretion in their selection of abortion methods. But where substantial medical authority supports the proposition that banning a particular abortion procedure could endanger a woman's health, Casey requires that the statute include a health exception where the procedure is 'necessary in the appropriate medical judgment for the preservation of life or health of the mother.'"

Now, the record clearly reflects that there is substantial medical authority supporting the use in some cases of this procedure.

Mr. Speaker, whatever our views are on the underlying issue of abortion, we ought to read the decision and apply the law.

Mr. Speaker, whatever our views are on the underlying issue of abortion, we ought to read the decision and apply the law. The Supreme Court in one decision said at least five times that the health exception must be included for the statute to be constitutional.

□ 1115

Furthermore, they put the exact phrase to be used, "necessary, in appropriate medical judgment, for the preservation of the life or the health of the mother," in plain text, in italics and in quotations.

Here we have a bill without the health exception. It is clearly unconstitutional, and we ought to reject the rule and the bill.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentlewoman from North Carolina for yielding time to me; and Mr. Speaker, let me just say in regard to some of the comments that the gentleman from Virginia just made in regard to this ban on partial-birth abortion only eliminating one method of a late-term abortion, and he said he would not describe some of the other procedures of late-term abortion, and I wish maybe he had because I, as a physician, as an OB/GYN physician, do not know of any other procedures, late-term procedures that would result in the death of a child at this stage of pregnancy, and we are talking about infants, that are well past the point of viability.

We are talking about, in some instances, 4½-, 5-pound babies, that that pregnancy cannot be terminated, and resulting in a dead baby without doing a destructive procedure known as partial-birth abortion. It literally is the only option left for a woman who wants to choose death for her child in the third trimester. If you do a cesarean section, you have got the problem of delivering a live child. If you induce labor, you have the problem of having a live child, and that problem means that you cannot perform an abortion.

This is what it is all about, and the gentleman from Texas on the other

side spoke a few minutes ago about the dirty little secret, the dirty little secret of this not banning late-term abortion. It certainly does when we eliminate this abhorrent procedure known as partial-birth abortion.

This question that keeps coming up about the health exception, how in the world could anybody consider that it would be a healthy thing to put a mother through this kind of procedure in the third trimester. It is not healthy. It is totally unhealthy. It is a complete farce.

I urge the adoption of the rule, and let us get on and pass this ban. It is time.

Ms. SLAUGHTER. Mr. Speaker, may I inquire how much time is left on either side.

The SPEAKER pro tempore (Mr. ISAKSON). The gentlewoman from New York (Ms. SLAUGHTER) has 2½ minutes remaining, and the gentlewoman from North Carolina (Mrs. MYRICK) has 8¼ minutes remaining and has the right to close.

Ms. SLAUGHTER. Mr. Speaker, do I understand the gentlewoman has no more speakers?

Mrs. MYRICK. I just have one more speaker.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding me the time.

Mr. Speaker, let me just make this very clear. The other side cannot have it both ways. The gentleman from Maryland (Mr. HOYER) and the gentleman from Texas (Mr. EDWARDS) argue that this legislation will not stop a single abortion, while the gentlewoman from New York (Mrs. MALONEY) and the gentlewoman from the District of Columbia (Ms. NORTON) took to the floor and argued that it would ban all abortions after 12 weeks. They cannot have it both ways.

Let us be very clear. Let us have intellectual honesty in this debate. We are trying to proscribe a horrific procedure wherein a baby who is partially born, only to have his or her brain jabbed with a scissors or some other sharp instrument and his or her brains are sucked out, thereby killing that child. This was invented by the abortion industry as a way of precluding what they considered a "dreaded complication," that is, late-term abortions where babies actually survive and go on to be adopted in many cases.

There have been many instances where babies survive an hour, 2 hours or longer. Some survive and are adopted, having survived later-term abortions. Partial birth abortion ensures that there is no survivor. They set out to kill the baby. The abortionist succeeds in his task.

Let me also point out that the gentlewoman from New York (Ms. SLAUGHTER), my good friend, argued that partial-birth abortions are performed on

disabled children. First of all, I resent the fact that somebody would suggest that a disabled child ought to be executed in this fashion. The Americans with Disability Act and all the other disability legislation finally brought us to the point where we recognized disabled people as just as human, just as alive, just as entitled to the best possible life imaginable as everyone else. To say that somehow the disabled ought to have this method reserved for them because, of course, they are disabled, I think, is unconscionable.

Let me also say, Ron FitzSimmons from the Abortion lobby made it very clear Pro-Abortion side "lied through our teeth" about for whom this method was intended. It is intended for later-term, second-trimester and third-trimester abortions. They lied through their teeth about who it was these were performed on. And how often they are performed.

Most of the kids who are killed with partial-birth abortion methods are perfectly healthy, perfectly normal, and those kids, like their disabled brothers and sisters, should not be executed in this terrible way or in any other way.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the balance of our time.

First, let me say that no one is advocating the killing of disabled children. That is offensive to all of us. The fact is that a fetus that is being born with no brain or one with no lungs is one that will not live. I believe even the OB/GYN would admit to that.

Let me then go on to say that this decision to terminate a pregnancy in the late term is an agonizing decision. Parents who have carried a child to late term desperately want that child. In many cases, they have already named that child. Listen to the story of Viki Wilson and her family.

She told in her own words: "In the spring of 1994, I was pregnant and expecting Abigail, my third child. My husband, Bill, an emergency room physician, had delivered our other children, and would do it again this time. At 36 weeks of pregnancy, however, all of our dreams and happy expectations came crashing down around us. My doctor ordered an ultrasound that detected what all of my previous prenatal testing had failed to detect, an encephalocele. Approximately two-thirds of my daughter's brain had formed outside her skull. What I thought were big, healthy, strong baby movements were in fact seizures.

"My doctor sent me to several specialists, including a perinatologist," I am sorry, I am so upset about this I can hardly speak, "a pediatric radiologist and a geneticist, in a desperate attempt to find a way to save her. But everyone agreed, she would not survive outside my body. They also feared that as the pregnancy progressed, before I went into labor, she would probably die from the increased compression in her brain.

"Our doctors explained our options, which included labor and delivery, C-

section, or termination of pregnancy. Because of the size of her anomaly, the doctors feared that my uterus might rupture in the birthing process, possibly rendering me sterile. The doctors also recommended against a C-section, because they could not justify the risks to my health when there was not hope of saving Abigail." No hope of saving Abigail.

"We agonized over our options. Both Bill and I are medical professionals. I am a registered nurse, and Bill is a physician. So we understood the medical risks inherent in each of our options. After discussing our situation extensively and reflecting on our options, we made the difficult decision to undergo an intact D&E.

"Losing Abigail was the hardest thing that ever happened to us in our lives, but I am grateful," I am grateful, "that Bill and I were able to make this decision ourselves and that we were given all of our medical options. There will be families in the future faced with this tragedy. Please allow us to have access to the medical procedures we need. Do not complicate the tragedies we already face."

Oppose this bill.

The SPEAKER pro tempore. The gentleman's time has expired.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

We have had a lot of debate this morning on this issue, and we will have a lot more debate on this issue as we go through the actual bill and not just the rule; and I hope the American people can see what we are talking about. I still find it very hard to believe as a mother, a grandmother, and a great-grandmother that anybody could allow this horrific procedure to happen to their child.

So I urge my colleagues to vote in favor of the rule and to vote in favor of the underlying legislation so it can finally be passed into law and signed by our President.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 383, I call up the conference report accompanying the Senate bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to House Resolution 383, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 30, 2003 at page H 8991.)

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 3, the conference report currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Partial-Birth Abortion Ban Act of 2003 would prohibit the gruesome and inhumane procedure known as partial-birth abortion that unfortunately we are now all too familiar with. An abortionist who violates this ban would be subject to fines, a maximum of 2 years imprisonment, or both. This ban includes an exception for those situations in which a partial-birth abortion is deemed necessary to save the life of the mother.

After two Presidential vetoes, this ban will finally become law and the performance of this barbaric procedure will come to an end. I am pleased to bring this conference report, which is the product of a House and Senate conference meeting held earlier this week, before the House. This bill, nearly identical to this conference report, passed the House of Representatives this summer by a 282 to 139 vote, and language identical to H.R. 760 passed the House last year by a 274 to 151 vote.

A partial-birth abortion is an unsafe procedure that is never medically necessary and should be prohibited. Contrary to the claims of partial-birth abortion advocates, this brutal procedure remains an untested, unproven, and potentially dangerous procedure that has never been embraced by the medical profession. As a result, the United States Congress, after receiving and reviewing extensive evidence, voted to ban partial-birth abortions during the 104th, 105th, and 106th Congress, and at least 27 States enacted bans on this procedure. Unfortunately, the two Federal bans that reached President Clinton's desk were promptly vetoed.

In June 2000, the United States Supreme Court struck down Nebraska's partial-birth abortion ban, which was similar, but not identical, to bans previously passed by Congress. In *Stenberg v. Carhart*, the court concluded that Nebraska's ban did not clearly distinguish the prohibited procedure from other more commonly performed second-trimester abortion procedures. The court also held, on the basis of the highly disputed factual findings of the district court, that the law was required to include an exception for partial-birth abortions deemed necessary to preserve the health of a woman.

The conference report's new definition of a partial-birth abortion addresses the court's first concern by more clearly defining the prohibited procedure than the statute at issue in *Stenberg*. The conference report also addresses the court's second objection to the Nebraska law by including extensive congressional findings, based upon medical evidence received in a series of legislative hearings, that, contrary to the factual findings of the district court in *Stenberg*, partial-birth abortion is never medically necessary to preserve a woman's health, poses serious risk to a woman's health, and, in fact, is below the requisite standard of medical care.

□ 1130

The conference report's lack of a health exception is based upon Congress' factual determination that partial birth abortion is a dangerous procedure that does not serve the health of any woman. The Supreme Court has a long history, particularly in the area of civil rights, of deferring to Congress' factual conclusions. In doing so, the Court has recognized that Congress' institutional structure makes it better suited than the Judiciary to assess facts based upon which it will make policy determinations. Indeed, the Supreme Court has recognized that, as an institution, "Congress is far better equipped than the Judiciary to amass and evaluate vast amounts of data bearing upon complex issues." As Justice Rehnquist has stated, the Court must be "particularly careful not to substitute its judgment of what is desirable for that of Congress or its own evaluation of evidence for a reasonable evaluation by the legislative branch."

Thus, in *Katzenback v. Morgan*, while addressing section 4(e) of the Voting Rights Act of 1965, the Court deferred to Congress' factual determination that section 4(e) would assist the Puerto Rican community in gaining nondiscriminatory treatment in public services, stating, "It is not for us to review the congressional resolution of the various issues it had before it to consider. Rather, it is enough that we are able to perceive a basis upon which the Congress might resolve the conflict as it did."

Similarly, in *Fullilove v. Klutznick*, when reviewing the minority business enterprise provision of the Public Works Employment Act of 1977, the Court repeatedly cited and deferred to the legislative record the factual conclusions of Congress to uphold the provisions as an appropriate exercise of congressional authority.

The conference report's critics cite to *Boerne v. Flores* for support of their argument that the Court will strike this ban down. Yet *Boerne* addressed Congress' authority to determine the scope of rights protected by the Constitution, not the issue of whether Congress' factual determinations should be overruled by a court.

In *Boerne*, the Court explicitly confirmed that Congress' factual conclu-

sion should be granted great weight, stating that it is for Congress in the first instance to determine whether and what legislation is needed to secure the guarantees of the 14th amendment and its conclusions are entitled to much deference, and that this judicial deference in most cases is based not on the state of the legislative record Congress compiles but on due regard for the decision of the body constitutionally appointed to decide.

Boerne does not stand for the proposition that Congress is bound to reach the same factual conclusions as the trial court did in *Stenberg*, particularly when Congress has reviewed extensive credible evidence, evidence that is more complete than the evidentiary record facing the *Stenberg* trial court, that directly contradicts the trial court's conclusions.

Substantial evidence presented and compiled at extensive congressional hearings, much of which was compiled after the District Court hearing in *Stenberg* and thus not included in the *Stenberg* trial record, demonstrates that a partial birth abortion is never necessary to preserve the health of a woman. The vast majority of partial birth abortions are performed on normal babies during normal pregnancies. Obstetricians who regularly treat patients suffering from serious medical complications during pregnancy or serious life-threatening fetal abnormalities utilize established, safe medical procedures, not the partial birth abortion procedure.

Previous bills that were nearly identical to this conference report enjoyed overwhelming support from Members of both parties precisely because of the barbaric nature of the procedure and the dangers it poses to women who undergo it. Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further coarsen society to the humanity of not only newborns but all vulnerable and innocent human life. Fortunately, we are only weeks if not days away from putting an end to partial birth abortions. I urge my colleagues to vote for this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we have a very bad combination: Members of Congress who want to play doctor and Members of Congress who want to play Supreme Court. When we put the two together, we have a description for some very bad medicine for the women of this country.

Today's vote is different from previous votes. Every Member of this House should understand that this is not a free vote. This legislation will become law unless we stop it. We cannot count on the Senate, we cannot count on the President, and remember that this President is trying to pack the Supreme Court with reactionary justices. If this bill becomes law, it will be the

first time since *Roe vs. Wade* was decided that Congress will have acted to criminalize the constitutional right to choose.

No one should think it will end here. This is only the first, not the last, bill that people who want to turn back the clock will bring forward. If my colleagues do not believe that this bill is intended as a direct assault on *Roe*, they should ask themselves why was a nonbinding statement supporting the right to choose pursuant to *Roe* and opposing efforts to overturn it dropped from the bill in the conference committee? Do not be fooled. Do not listen to what they say. Look at what they are doing.

Although this bill is blatantly and facially unconstitutional, the Supreme Court's decision striking down an almost identical Nebraska statute was a close vote. This administration is determined to pack the Court with justices committed to eliminating the fundamental right to keep government out of the most personal decisions involving women's life and health. So even though this bill is blatantly unconstitutional according to the Supreme Court, one cannot count on the Supreme Court maintaining that view if the President succeeds in packing it with reactionaries, which is why this bill is before us.

We will not find the term "partial birth abortion" in any medical textbook. The authors of this legislation prefer the language of propaganda to the language of science.

For one thing, the rhetoric behind this bill is really a rhetoric aimed at late-term abortion, at fetuses that look like human beings, that are almost born; late-term fetuses, as people understand the term. The fact is, though, that if we want to ban late-term abortions, I do not think there will be many people in this Chamber who would oppose that. Forty-one States have done so against almost no opposition.

The Supreme Court has said that we have the power to ban abortions after viability. Most States have done so. If the horror that is to be addressed, the alleged horror that is to be addressed is as described, just put in a bill that says no abortions after fetal viability. Very few people would oppose it. It would pass, and that would take care of the problem. But that amendment was also defeated in conference because that is not the intent here.

One of the problems with this bill from a constitutional point of view is that the term is so vaguely defined that it could easily refer to various different procedures that are necessary in second trimester, not late term, but second trimester, pre-viability abortions, when there are certain health problems attendant on the pregnancy. This bill is intended to forbid that, too, and to chill doctors from performing certain techniques which may be the best from a health point of view in second trimester abortions lest they have

a prosecution under this bill, even though it is not clearly defined.

This bill reads as if the authors carefully studied the Supreme Court's decisions and then went out of their way to thumb their noses at 30 years of clear law. Unless the authors think that when the Court has made repeated and clear statements over 30 years of what the Constitution requires that the Court was just pulling our leg, this bill must be considered facially unconstitutional.

Outrageously, both from a substantive point of view and a constitutional point of view, there is no health exception. A partial birth abortion as defined would be prohibited even where necessary to preserve the health of the mother. That is just outrageous on its face. But, in addition to this, the Supreme Court has repeatedly said that we must have a health exception in a bill even with respect to post-viability abortions if that bill is going to be constitutional. We cannot prohibit abortions or abortion procedures necessary to save the life or health of the mother.

The exception for a woman's life in this bill is so narrow that it violates the Constitution and will place doctors in the position of trying to guess just how grave a danger to her life a pregnancy must pose to a woman before they can be confident that protecting her will not result in jail time.

I know that some of my colleagues do not like the clear requirements of the Constitution, but that is the law of the land, and no amount of rhetoric will change that. The drafters of this bill, as the distinguished chairman said a few minutes ago, say that the findings included in the bill, the findings that so-called partial birth abortions are never medically necessary, that these findings get around the constitutional requirement as established by the Supreme Court, that a medical procedure necessary to preserve the life or health of a woman cannot be denied. But Congress is not a doctor, and certainly Congress is not the doctor in a particular procedure performed on a particular woman. Only her doctor, who knows her medical condition, can decide what is medically necessary.

The Supreme Court has made clear that it is not interested in Congress' findings of fact, despite what the distinguished chairman said. Boerne and other cases, though they pay lip service to Congress' findings of fact, toss them out routinely. The Supreme Court will not ignore the significant body of medical opinion contradicting what the sponsors of the bill say.

Many supporters of this bill think all abortion is infanticide. They are entitled to their view, but it is not the mainstream view. This bill would foist this fringe belief on American women. This bill would criminalize abortions in the second trimester and turn doctors treating women with dangerously deformed fetuses, those that can never be born alive, into criminals.

We could prohibit post-viability abortions in situations in which a

woman's life and health is not in jeopardy, but this bill does not do that. That is where the abortion itself would not put the woman's life or health in jeopardy. But that is not what this bill does. Forty-one States, as I said already, ban post-viability abortions. Almost nobody would oppose that bill. But that is not this bill.

Randall Terry, the founder of Operation Rescue, and one of the most radical opponents of a woman's right to choose, has called this bill a political scam and a public relations gold mine. He is right. The real purpose of this bill is not as we have been told, to save babies, but to save elections. Unfortunately, today, women's health takes a back seat to politics and political extremism.

Hopefully, the Constitution still serves as a bulwark against such efforts. Regrettably, we cannot be sure the current efforts to pack the courts will not succeed. We should all vote today as if women's lives depend on it. They do. And I hope this Chamber, this House will reject this bill, as it ought to.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership on this important issue.

It has been almost a decade since the gruesome practice of partial birth abortion escaped the shadowy corners of the abortion clinics and was revealed to the public. In the years that followed, we have seen an overwhelming majority of the American people, many in the medical community, and a bipartisan coalition of lawmakers at all levels of government push for an end to this barbaric procedure.

In fact, the first initiative in Congress to ban partial birth abortions started with a small group of us back in 1995. When I first learned that these horrific acts were occurring, I thought for sure that they would be outlawed at least by the time we celebrated the new millennium. Yet Presidential vetoes, confounding court decisions, and tenacious partial birth abortion advocates have maintained this particularly troubling form of abortion in this country.

We stand here today, having overcome many obstacles, with a strong bipartisan majority in the House ready to stop a procedure that is akin to infanticide, with a President willing to stand up for the culture of life in America, with constitutional legislation that should satisfy any unbiased and open-minded court.

Of course, we will still hear vocal protests on the floor today and in the courts once this bill becomes law. Contrary to the claims of partial birth abortion advocates, however, this bar-

baric procedure has never been embraced by the mainstream medical community and remains untested, unproven, and absolutely dangerous.

The most common assertion that a partial birth abortion is necessary to preserve the health of the mother is simply inconsistent with the overwhelming weight of authority. Virtually all evidence, including information we obtained at extensive legislative hearings, demonstrates that partial birth abortion is dangerous to women and is never medically necessary to preserve a woman's health. In fact, according to the American Medical Association, and I quote, "There is no consensus among obstetricians about its use;" and, "It is not in the medical textbooks."

□ 1145

Even Dr. Warren Hern, the author of the standard textbook on abortion procedures, has testified that he had "very serious reservations about this procedure," and he would "dispute any statement that this is the safest procedure to use."

Those who continue to espouse the view that partial-birth abortion may be the most appropriate abortion procedure for some women in some circumstances have failed to identify such circumstances. Most in the mainstream medical community continue to view partial-birth abortion as nothing more than an experimental procedure, the safety and efficacy of which has never been confirmed. The American Association of American Physicians and Surgeons wrote to me earlier this year and stated "partial-birth abortion has no medical indications. We can conceive of no circumstance in which it would be needed to save the life or preserve the health of a mother." Clearly, women deserve better than this.

Partial-birth abortion is also brutal and inhumane to the nearly-born infant. Virtually all of the infants subjected to this procedure are alive and feel excruciating pain. In fact, the infant's perception of painful stimuli at this stage of development is more intense than that of newborn infants and older children.

In testimony to the Senate Committee on the Judiciary, Brenda Pratt Schaefer, a registered nurse, captured the true horror of partial-birth abortion. Ms. Schaefer observed Dr. Martin Haskell, who first introduced this rogue procedure to the abortion community over 10 years ago, use the partial-birth abortion procedure on at least three different babies. Describing what she saw performed on a child who was 26½ weeks along, she testified, "Dr. Haskell went in with forceps and grabbed the baby's legs and pulled them down into the birth canal, then delivered together the baby's body and the arms, everything but the head. The doctor kept the head right inside the uterus. The baby's little fingers were clapping and unclapping and his little

feet were kicking. Then the doctor stuck the scissors in the back of his head and the baby's arms jerked out like a startle reaction, like a flinch, like a baby does when he thinks he is going to fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby went completely limp. He cut the umbilical cord and delivered the placenta. He threw the baby in a pan along with the placenta and the instruments he had just used. I saw the baby move in the pan. I asked another nurse and she said it was just reflexes. That baby boy had the most perfect, angelic face I think I have ever seen in my life." That is what this nurse said when she saw this happen.

I ask my colleagues in the House to quickly approve our conference report so we may send this important legislation to the President. Every day that we delay is another day that an unborn baby boy suffers unconscionably. Every day that we delay is another day that a baby girl's life is brutally ended. Every day that we delay is another day that we continue to live this national tragedy.

Mr. NADLER. Mr. Speaker, I yield myself 1 minute to comment on some of what we just heard.

Mr. Speaker, the American Medical Women's Association, an organization of 10,000 women physicians and medical students dedicated to promoting women's health and advancing women in medicine, states, "We recognize this legislation is an attempt to ban a procedure that in some circumstances is the safest and most appropriate alternative available to save the life and health of the woman."

The American Public Health Association with 50,000 members from over 50 public health occupations writes the same. So to say it is universally recognized that there is no medical necessity for the procedures described in this bill or perhaps described in the imprecise definition of this bill is not correct.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Speaker, I rise today in strong opposition to the conference report on partial-birth abortion. This legislation injects government into the private medical decisions made by a woman, her family, and her doctor; and in so doing, this bill violates a fundamental principle at the heart of the doctor-patient relationship, that the doctor in consultation with the patient and based on that patient's individual circumstances must choose the most appropriate method of care for the patient.

I would like to remind my colleagues that with a very small handful of exceptions, we are not trained physicians. We have no business interfering with a woman's medical privacy. Additionally, this bill is unconstitutional because it does not contain an excep-

tion to protect the health of the mother. Simple humanity alone should be sufficient to justify a health exception. But if my colleagues need more, the U.S. Supreme Court held in *Stenberg v. Carhart* that the Nebraska ban was unconstitutional because there was no health exception for the mother.

Mr. Speaker, why would we pass something that is already known to be unconstitutional? Simply put, this bill prevents doctors from doing their jobs and will prevent physicians from providing the best and safest care for their patients. I urge my colleagues to reject the conference report before us.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I rise today in support of the conference report on the partial-birth abortion ban. Every year thousands of women are subjected to this traumatic medical procedure. It is routinely used during the fifth and sixth months of pregnancy. I know it sounds horrendous, and it is horrendous because it kills the baby just seconds before he or she takes their first breath.

This congressional body must act now to preserve the future of the next generation and of their mothers, or this Nation will reap the horrible consequences of allowing partial-birth abortion to continue. Some opponents like to say that it is safe, that the procedure is safe, and they are wrong. They have not informed the public on the effects of this practice on women. Numerous medical practitioners and the AMA have testified in committee that partial-birth abortion is never medically necessary in any situation and is severely below the standard of good quality care. Partial-birth abortion seriously threatens a mother's health and her ability to carry her future children to term. I urge my colleagues to remember their duty and vote for the conference report.

Mr. NADLER. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I think it is important that America understand what is going on here today. This is more about 30-second ads in the next political campaign than it is about what is right and wrong.

I was a member of the conference committee, and we offered to reach across the aisle and do something that I think we can all agree on, which is to say that late-term abortions should not be an elective procedure; and I actually strongly believe that. You should not have a late-term abortion unless there is some overwhelming need, either you are going to die or there is going to be a very serious health consequence if it is not done. Only then, if that is not the case, does the government have a right to step in.

I look at this bill and I see the findings are just not correct. To say that this is never medically necessary is simply not true.

Mr. Speaker, the Congressmen in the conference committee and here in the House talk about these circumstances as if they actually knew what was going on. As it turns out, I actually know Vicki Wilson personally. Her mother-in-law, Susie Wilson, and I served together on the board of supervisors, and I remember when Susie found out that her daughter-in-law's pregnancy had gone terribly wrong. It was in the eighth month. They found out that the child they hoped to have, they had picked a name already, Abigail, that the brains had formed completely outside the cranium. There was no way that they were going to have a healthy child. And so the question soon became how was Vicki going to survive this, number one; and, number two, survive it so she and her husband, Bill, who is also a doctor, might have a child. They wanted to have a daughter.

Susie Wilson called me and my colleague on the board, Dianne McKenna, throughout the 2 days that this procedure, which, by the way, is not called partial-birth in the medical terminology, was going on; and Susie stayed with her daughter-in-law throughout the procedure.

To say that a bunch of Congressmen know what is best for this family is really an insult to the American people, and especially to women. So American women, watch out, these Congressmen are wanting to decide whether you survive and have a chance to have another child, and really to make the most personal decision for you instead of you making it with your husband and doctor. I think it is wrong, and I hope that we turn this bill down.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Speaker, I rise today with great anticipation that our Nation is nearing the end of a tragic chapter in our American history, one in which the most helpless among us are vulnerable to the most heinous crimes. I believe that, with the passage of the partial-birth abortion ban, we will look back and remember this day as the day that America began to find its way back to its conscience.

Today we will hear people talking about choice when they know this bill is not about choice. We will hear about them talk about abortion, and this bill is really not about abortion. This bill substantively is about one procedure, one procedure that is so painful to an unborn baby that even the most extreme proponent of abortion has to look at it and say it shocks even their conscience.

This bill is simply about preventing egregious and unnecessary pain to an unborn child. Or if Members want to pick a different nomenclature, a fetus.

While everyone is entitled to his or her own opinion, people are not entitled to their own facts. On partial-birth abortion, the facts are out. The facts are clear. Partial-birth abortion is

never really medically necessary. Partial-birth abortion is not a rare procedure. It happens many times, and it is not limited to mothers or babies who are in danger. It is performed on healthy women and healthy babies, and that is what the facts are.

The overwhelming testimony is that an unborn child experiences more pain at this particular juncture than it does even after it is born. This bill is not about having an abortion; it is about whether or not you can have a partial-birth abortion. Partial-birth abortion is repugnant to civilized society. Partial-birth abortion goes beyond abortion on demand. The baby involved is not unborn. This procedure is infanticide, and its cruelty stretches the limits of human decency.

This issue comes down to one simple question: Is there no limit, is there no amount of pain, is there no procedure that is so extreme that we can apply to this unborn child or this fetus that we are willing as a country to say that just goes too far?

Mr. Speaker, partial-birth abortion goes too far, and I hope we will pass this conference report.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ).

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise in opposition to the conference report on S. 3, in opposition to the underlying bill, the so-called Partial-Birth Abortion Ban Act of 2003, and in strong opposition to passing legislation that endangers the health of women and violates the U.S. Constitution.

Make no mistake about it, S. 3 endangers the health and safety of women. If this bill is signed into law, Congress will take the extraordinary step of banning a medical procedure that many physicians have concluded is safe for women.

□ 1200

In fact, the American College of Obstetricians and Gynecologists concluded in their September, 2000, statement of policy that the procedure banned under S. 3 may be "the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman."

Congress should not second-guess the expertise of physicians. Likewise, Congress should not interfere with the doctor-patient relationship and limit the options available to women to protect their health. But this is exactly what the so-called Partial-Birth Abortion Ban Act of 2003 does. It endangers women's health by making a procedure that is the safest option for many women illegal and unavailable.

However, the Partial-Birth Abortion Ban Act does not stop at endangering a woman's health. This bill also blatantly violates the Constitution of the United States. In the Stenberg decision, the Supreme Court struck down a Nebraska statute that is practically identical to the legislation we are talk-

ing about today. The Supreme Court struck down the Nebraska statute as unconstitutional because it failed to contain a provision that would provide an exception to the ban when the procedure is necessary to preserve the life or the health of the woman.

Despite the Supreme Court's clear and explicit ruling that a law banning partial-birth abortion procedures must have an exception to protect the life or health of the mother, the drafters of S. 3 have refused to include the exception when the procedure is necessary to protect the health of the mother. By failing to include this health exception, the law is unconstitutional.

I oppose this conference report and urge my colleagues to do the same.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I thank the gentleman from Wisconsin for the opportunity to rise in support of this conference report. No fewer than 77 percent of the general public supports a ban on this horrible procedure known as partial-birth abortion. 77 percent. No fewer than 25 States have passed laws banning this procedure. Since 1995, this House has passed a ban on this procedure in every session, the 104th, the 105th, the 106th, the 107th; and now the 108th Congresses support this ban.

Our opponents tell us that this law would be unconstitutional. It is clear that the committee has addressed the concerns of the Stenberg court. It is clear that this is a gruesome procedure which should never be allowed in a civilized society. Today is the day we will finally complete our task. We are going to vote on the side of civilization and compassion.

I wonder where we would be headed if we would continue to be a society that allowed this type of gruesome procedure, but fortunately today we are going to win, and a lot of innocent babies are going to win. A lot of innocent women are going to win. We are getting the point across and certainly have gotten it across to the general public that partial-birth abortion crosses the line. Partial-birth abortion nears infanticide, as former Senator and the late Daniel Patrick Moynihan had stated.

I am proud to be a supporter of this bill. I am proud that this House has passed it consecutively and patiently redrawn it to make sure that it comports with the Constitution. I urge my colleagues to support this conference report. I commend the chairman of the Subcommittee on the Constitution and the chairman of the Committee on the Judiciary for supporting this. I urge a positive vote on the conference report.

Mr. NADLER. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Speaker, I rise today in strong opposition to the so-called partial-birth abortion ban conference report. This legislation is dan-

gerous and deceptive; it is politically driven and filled with mischaracterizations for the sole purpose of inflaming the abortion debate. I strongly urge my colleagues to defeat this report.

Everyone in this House knows that "partial birth" is a political term, not a medical term. It was invented as political rhetoric designed to erode the protections of *Roe v. Wade*. In fact, the bill that passed the House this Congress would apply to more than just a single abortion procedure, the intact D&E or the D&X procedure, to include prohibitions on abortions well before viability. It is clear that the bill opens up a slippery slope where its ultimate goal is to ban abortion entirely.

The partial-birth abortion ban is opposed by numerous medical and health organizations. Among them are the American College of Obstetricians and Gynecologists, the American Medical Women's Association and America Public Health Association, and the Medical Association of my State, California. All of these groups understand how the ban prevents women from receiving the level of medical care that would ensure their safety and their well-being. Most importantly, they recognize the fact that such medical care decisions must be left to the judgment of the physician and the woman.

We need to stop playing doctors here in this governmental institution. It is an intrusion into the woman's physical and mental health. No one on this floor is qualified to make that decision. The access to abortion is a constitutionally guaranteed protection. It is a private medical decision that should not be dictated by the Federal Government. I urge a strong "no" on this conference report.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, this truly is a historic moment in the House. I want to commend the chairman and the subcommittee chairman for their leadership on this issue.

The subcommittee chairman spoke about Brenda Pratt Shafer who, in 1993, a nurse with 13 years' experience, was assigned to an abortion clinic by her nursing agency. She was, quote, very pro-choice at the time. We have heard her actual words as she describes the procedure, what she saw. Ms. Shafer never returned to that clinic after witnessing that partial-birth abortion.

Those in favor of this procedure believe that *Roe v. Wade* is sacrosanct, that we should leave this pressing moral question to the whims of the unelected judges across the street. This type of abortion, partial-birth abortion, is more like a legal technicality. The baby must be delivered feet first so that the doctor actually forces the head to stay in the birth canal. Otherwise, he would be born and actually breathe. Most people would call this murder. But right now it is just a technicality.

There is no excuse for this procedure in a civilized nation. I urge my colleagues to vote for this conference report.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). The Chair would ask the gentleman to remove the sticker.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think my words will speak to my commitment; and it is in support of the Immigrant Freedom Ride that is here on this campus asking for justice, as we ask today; and I want to thank the distinguished gentleman from New York for his leadership over the years on this issue, the constitutionality, if you will, of this issue.

Mr. Speaker, I have remarks that I will submit into the RECORD ably done by my staff member and doctoral candidate, Sophia King, but I think today it is important to chronicle the history of this because I know that my good friend and colleague who has been a leader on this, the gentleman from New York, knows that we have been almost 10 years of generating over and over this repetitive legislation, really defined by the Gingrich Congress of 1995.

The first time that I came to this Congress, I had the pleasure of serving on the Committee on the Judiciary with the Honorable Pat Schroeder; and we sat through a number of passionate statements by women who pleaded with the Committee on the Judiciary to not take the rights away from them, their families, their God and as well their physicians. Tragically, this Congress did not listen then; and we continue year after year after year not to listen.

I heard the passionate pleas of mothers who said, all I want to do is to procreate and to have a healthy child. We heard the testimony of physicians who articulated the fact that if that mother did not have the procedure so named partial-birth abortion, they would not be able to have the opportunity to give birth and to have a nurturing relationship with a child.

And, lo and behold, those who suggest that they will take the role of God and now indicate what doctors and family members and mothers and God have them to do, we have this abominable legislation again on the floor of the House with the real notion that this is not serious. Because if it was serious, it would be a provision that protected the health of the mother. That is not in there. If it was serious, they would listen to the American Medical Association, the American College of Obstetrics and Gynecologists.

Interestingly enough, my good friend previously on the floor indicts the Supreme Court that passed *Roe v. Wade*, and *Roe v. Wade* is good law of which they took out of the bill, the Senate

language, he indicts the very Supreme Court that elected the President of the United States, or selected him. That is an interesting conflict from my good friends on the other side of the aisle.

I maintain that this is a frivolous piece of legislation; and if the States want to do it, Mr. Speaker, then let them do it. But how dare you put yourself, this body, in the seat or the place of a mother who has seen a tragedy occur that will eliminate her opportunity to procreate. How dare we do it. This should be voted down, and we should never see this travesty come again and never take up the Supreme Court and indict them when they elected the very person that serves in the White House today.

Mr. Speaker, I rise in opposition to the Partial Birth Abortion Ban Conference Report (S. 3). Once again this body is considering anti-choice legislation that is unconstitutional and dangerous to women's health. I oppose this legislation and will continue to oppose any attempt to criminalize a woman's constitutional right to choose.

Contrary to repeated anti-choice claims, this bill does not ban only one procedure. S. 3 is not constitutional and the public as well as the medical community does not support this legislation. A recent poll confirms that a solid majority of Americans (61 percent) opposes this legislation because it fails to protect women's health.

This legislation is not only unconstitutional but it is yet another attempt to ban so-called "partial birth abortions." This is a non-medical term. The U.S. Supreme Court struck down a similar statute in *Stenberg v. Carhart*. The Court invalidated a Nebraska statute banning so-called "partial birth abortions." So, this legislation is at odds with the court's ruling. In *Roe v. Wade*, the court held that women had a privacy interest in electing to have an abortion, based on the 5th and 14th Amendments' concept of personal liberty.

Despite the fact that the Supreme Court struck down legislation virtually identical to S. 3 in the year 2000, anti-choice Members of Congress continue to jeopardize women's health by promoting this legislation to advance their ultimate goal of eliminating a woman's right to choose altogether. The Supreme Court struck down legislation calling for a so-called "Partial Birth Abortion Ban" just two years ago. So-called "partial-birth abortion" would ban safe, pre-viability abortions in violation of a woman's right to choose.

This type of legislation ignores the Supreme Court's explicit directive that women's health must be of the utmost concern. The Supreme Court, during the twenty-nine years since it recognized the right to choose abortion, has consistently required that when a State restricts access to abortion, a woman's health must be the paramount consideration. Just two years ago, the Supreme Court stated unequivocally that every abortion restriction—including bans on so-called "partial-birth abortion"—must contain a health exception that allows an abortion when "necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." *Carhart*, 530 U.S. at 931.

Directly ignoring the Supreme Court's ruling, so-called "Partial Birth Abortion Ban" legislation does not allow an abortion necessary for a woman's health.

In *Carhart*, the Supreme Court rejected the argument made by this bill's sponsors that the legislation need not contain a health exception because intact dilation and extraction ("intact D&E" or "D&X") is never necessary for a woman's health. The Supreme Court stated that a law that "altogether forbids D&X creates a significant health risk," and therefore, is unconstitutional. *Carhart*, 530 U.S. at 938.

This bill would ban safe medical procedures, imposing an undue burden on women. The bill's sponsors use rhetoric about full-term fetuses, but this bill would ban abortions performed before a fetus is viable. Like the law before the Supreme Court in *Carhart*, "even if the statute's basic aim is to ban dilation and extraction (D&X,) its language makes clear that it also covers a much broader category of procedures," and therefore, imposes an unconstitutional burden on women. *Carhart*, 530 U.S. at 939.

Even if such legislation banned only intact dilation and extraction ("intact D&E" or "D&X") abortions, it would compromise women's health. Legislation that contends that D&X is unsafe is simply untrue. If is a safe method of abortion and is within the accepted standard for care. ACOG has concluded that D&X is a safe procedure and may be the safest option for some women. And the Supreme Court explained in *Carhart* that "significant medical authority supports the proposition that in some circumstances, D&X would be the safest procedure." 530 U.S. at 932. Indeed, the Court concluded that "a statute that altogether forbids D&X creates a significant health risk." *Id.* at 938.

The D&X abortion procedure offers a variety of safety advantages over other procedures. Compared to D&E abortions, D&X involves less risk of uterine perforation or cervical laceration because the physician makes fewer passes into the uterus with sharp instruments. There is substantial medical evidence that D&X reduces the risk of retained fetal tissue, a complication that can cause maternal death or injury. The D&X procedure is a safer option than other procedures for women with particular health conditions. Finally, D&X procedures usually take less time than other abortion methods used at a comparable stage of pregnancy, which can have significant health advantages.

In fact, as the American College of Obstetricians and Gynecologists (ACOG) has concluded, D&X may be "the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman."

This ban would undermine a physician's ability to determine the best treatment for a patient. Physicians must be free to make clinical determinations, in accordance with medical standards of care.

Allowing physicians to exercise their medical judgement is not only good policy—it is also the law. In *Stenberg v. Carhart*, 530 U.S. 914 (2000), the Supreme Court ruled that all abortion legislation must allow the physician to exercise reasonable medical judgment, even where medical opinions differ. The Court made clear that exceptions to an abortion ban cannot be limited to situations where the health risk is an "abortion necessity," nor can the law require unanimity of medical opinion as to the need for a particular abortion method. *Id.* at 937.

Mr. Speaker, women and their families, along with their doctors, are better than politicians at making decisions about medical care. Congress should not take decisions about medical treatment out of the hands of doctors and families. I must oppose this attempt to disregard the Supreme Court's clear message in *Stenberg v. Carhart*. Abortion bans that fail to protect a woman's health by banning safe abortion methods are unconstitutional.

PROPOSED AMENDMENT FOR CONFERENCE
COMMITTEE MEETING ON S. 3

At the appropriate place, insert the following:

SEC. ____ SENSE OF THE SENATE CONCERNING
ROE V. WADE.

(a) FINDINGS.—The Senate finds that—

(1) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in *Roe v. Wade* (410 U.S. 113 (1973)); and

(2) the 1973 Supreme Court decision in *Roe v. Wade* established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the decision of the Supreme Court in *Roe v. Wade* (410 U.S. 113 (1973)) was appropriate and secures an important constitutional right; and

(2) such decision should not be overturned.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Speaker, first, I want to congratulate my colleague from Wisconsin, the chairman of the Committee on the Judiciary, for his leadership on this issue. This bill has been called an abomination, frivolous.

Let us quickly examine what a partial-birth abortion is. In a partial-birth abortion, the abortionist pulls a living baby, feet first, out of the womb and into the birth canal as we can see right here, except for the head, which the abortionist purposely keeps lodged just inside the cervix. The abortionist punctures the base of the baby's skull with a surgical instrument, like a long surgical scissor or a pointed hollow metal tube called a trocar. Then he inserts the catheter into the womb and removes the baby's brain with a powerful suction machine. This causes the skull to collapse, after which the abortionist completes the delivery of the now dead baby. That is what is occurring in America today. This is happening right now. This vote will stop this from happening. I urge all of us to pass this bill.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. RYAN of Wisconsin. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I commend the gentleman from Wisconsin for bringing this diagram to the floor of the House so that we may be able to graphically see how a partial-birth abortion is performed. The difference between a partial-birth abortion, which this bill will ban, and first-degree murder is three inches. Three inches. That is why this bill is not a

travesty. This bill is a serious attempt to get rid of a gruesome and barbaric procedure. Anyone who does not think this procedure is gruesome and barbaric ought to look at the diagram that the gentleman from Wisconsin has presented to the House.

Mr. RYAN of Wisconsin. I thank gentleman for his leadership. I urge all of my colleagues, Democrat and Republican, to vote for this and to save lives.

Mr. NADLER. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. My colleagues, after commemorating the 30th anniversary of the Supreme Court's decision in *Roe v. Wade* just 9 months ago, we are reminded again that a woman's right to choose is never secure. In the debate today over so-called partial-birth abortion, do not ever forget this is about *Roe v. Wade*. We are here because supporters of this bill disagree with the Supreme Court.

Let us be clear. This is not about outlawing one method of abortion. It is about restricting access to safe medical procedures throughout an entire pregnancy. Ultimately, it is about the right of all women to choose. Proponents of this legislation want to overturn *Roe v. Wade* and *Stenberg v. Carhart* and go back to the days when women had no options, when they left the country or died in back alleys.

□ 1215

In reflecting on the long debate over this bill starting in 1995, I remember something that I heard Justice Sandra Day O'Connor say once. She said that she was drawn to the law because she saw the role it plays in shaping our society. "I don't think law often leads society," she said. "It really is a statement of society's beliefs in a way."

The proponents of this bill and I would likely agree with Justice O'Connor, except I believe that *Roe v. Wade* continues to express our society's beliefs, and they do not.

Roe said that the decision to terminate a pregnancy is private and personal and should be made by a woman and her family and her clergy without undue interference from the Government. I and the American people still believe that, supporters of this bill do not. *Roe* and *Stenberg* said that a woman must never be forced to sacrifice her life or damage her health in order to bring a pregnancy to term. The woman's health must come first and be protected throughout her pregnancy. I and the American people still believe this, supporters of the bill do not.

And *Roe* and *Stenberg* said that terminations about viability and health risks must be made for each woman by her physician. A blanket Government decree about medicine is irresponsible and dangerous. I and the American people still believe that, supporters of the bill do not.

I urge my colleagues to not be fooled today by those who claim that suffi-

cient changes have been made so that this bill agrees with the principles outlined in *Roe* and *Stenberg*. Make no mistake. The bill before us today still does not contain the health exception, which means it is still unconstitutional. It still bans abortion throughout pregnancy, which means it is still unconstitutional. Congress is wrong to pass this by ban, and the President would be wrong to sign it. Mr. Speaker, we believe that women matter. We believe that their health and lives are irreplaceable and worth protecting. That is why we oppose this ban. I urge my colleagues to respect the law of the land and support the values in *Roe v. Wade* and *Stenberg v. Carhart*. Leave decisions in the hands of families. Protect the health of women.

Mr. SENSENBRENNER. Mr. Speaker, the next two speakers on our side are medical doctors. We have heard a lot about people playing doctor here.

Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. GINGREY), M.D.

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker let me just say this. What we are hearing from the opposition over and over again is that this is an attack on *Roe v. Wade*. It is not an attack on *Roe*. I will stand here and tell the Members that I think that January 22, 1973, will live on as a day in infamy, and I wish it had never happened, but this is not an attack on *Roe v. Wade*. This is an attack on one procedure, one abhorrent procedure called partial-birth abortion.

The other side wants to say that there is no medical terminology of "partial-birth abortion." It is as much a medical terminology as to say taking somebody's appendix out or a gallbladder out is medical terminology. I do not know what euphemism they want to use for this procedure, but this is a partial-birth abortion. Someone said earlier that it is akin to infanticide. I am not a legal scholar, but to me it is infanticide because when one delivers that human outside the mother's womb, and it has a beating heart, it no longer is a fetus. It is an infant, and if they kill it at that point, and that is what partial-birth abortion is, then that is infanticide.

Vote for this conference report, both sides of the aisle.

Mr. NADLER. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I thank the gentleman for yielding me this time and also for his leadership.

I rise today in very strong opposition to this conference report that would deny women their constitutionally protected rights, endanger women's health and criminalize safe medical practices. This is an attack on *Roe v. Wade*. Mr. Speaker, this conference report represents yet another victory in this President's very aggressive and very hostile antiwoman agenda, and like

provisions of another attack on our civil rights, in this instance the Patriot Act, it is dangerous and it is unconstitutional. That is why if and when this fatally flawed and dangerous conference report is signed into law, it will be challenged in court.

Pregnancy and childbirth are among the most intimate and the most personal experiences of a woman's life. Meddling in these intensely private affairs violates our Constitution. Our freedom to choose is every woman's fundamental right. This should be a medical decision made between a woman, her family, and her doctor and her clergy. Government has no right to interfere. This bill is outrageous. It is reckless and it is unconstitutional. This conference report should be defeated here. Otherwise, the Supreme Court will rule it unconstitutional. *Roe v. Wade* must be upheld. Let us not go down this slippery slope and try to unravel it in this very dangerous and deceitful way. I urge my colleagues to vote no on this conference report.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BURGESS), M.D., for another medical opinion.

Mr. BURGESS. Mr. Speaker, I thank the Chairman for yielding me this time.

Mr. Speaker, I am a physician who has dedicated my life to the healthcare of women. I have delivered over 3,000 babies. The only reason to select the partial-birth abortion procedure is to ensure that a baby is dead when it is delivered. As a doctor, I recognize that serious complications can occur during the last trimester of pregnancy. However, if the mother's health dictates that the pregnancy must be concluded and a normal birth is not possible, the baby may be delivered by C-section. Whether the infant lives or dies in that scenario depends on the severity of the medical complications and the degree of prematurity, but that outcome is dictated by the disease process itself. The fate of the infant during this procedure, the partial-birth abortion procedure, is predetermined by the nature of the procedure performed and is uniformly fatal to the baby.

In 1995, a panel of 12 doctors representing the American Medical Association voted unanimously to recommend banning the partial-birth abortion procedure, calling it "basically repulsive." I agree with the AMA. It is repulsive. It is unnecessary. And, fortunately, it will soon be illegal.

Mr. NADLER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have heard repeatedly, including from the last speaker, that so-called partial-birth abortion is never a necessary procedure to save the life and health of the mother, but fact is the American College of Obstetricians and Gynecologists, and I am reading now from the committee report, minority views, "the leading professional association of physicians who specialize in the health care of women,

has concluded that the D & X' procedure, which is one procedure described by partial-birth abortion, "is a safe procedure and may be the safest option for some women. ACOG has explained that intact D & E, including D & X, is a minor, and often safer, variant of the 'traditional' nonintact D & E. ACOG has also stated that D & X 'may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman. Only the physician, in consultation with the patient and based on her circumstances, can make this decision.'"

That is why relying on this kind of medical evidence, "the Supreme Court concluded in *Stenberg* that 'significant medical authority supports the proposition that in some circumstances D & X would be the safest procedure.' Indeed, the Court concluded that 'a statute that altogether forbids D & X creates a significant health risk.'"

So much for the so-called findings in this bill, the Supreme Court has already thrown them in the trash basket.

That is why, in addition to the American College of Obstetricians and Gynecologists, numerous other medical groups have publicly opposed attempts by Congress to pass this legislation, and among those which have labeled this legislation as injurious to women's health, and therefore they oppose it, are the American Public Health Association, the American Nurses Association, the American Medical Women's Association, the California Medical Association, the American College of Nurse Practitioners, the Association of Reproductive Health Professionals, the Association of Schools of Public Health, the National Association of Nurse Practitioners in Reproductive Health. And, finally, "contrary to the claims of the sponsors of" this bill, "the American Medical Association does not support any criminal abortion ban legislation."

So, Mr. Speaker, the Supreme Court has already said, in so many words, that any legislation that altogether forbids some of the kinds of procedures that would be described by this legislation creates a significant health risk for women, and, therefore, is unconstitutional.

Mr. Speaker, I said a moment ago that the arguments that this is never a medically necessary procedure are refuted by all the different medical groups that I named and by the specific findings of the Supreme Court in the *Stenberg* case. And all the nonsense about findings by Congress will not avail to make this bill constitutional against the finding by the Supreme Court. This is a Supreme Court that does not care that much about findings by Congress anyway, and that has said, in so many words, that a statute that altogether forbids D & X, one of the procedures that clearly would be outlawed by this bill, creates a significant health risk and an unconstitutional health risk.

So this bill is clearly unconstitutional. It is unconstitutional because it

does not give people a right to do what the physician and the patient regard as the safest procedure to save the health and life of the mother, which the Supreme Court says they must do. But beyond that, this is clearly an assault on *Roe v. Wade*, whatever else anybody may say.

If it is not an assault on *Roe*, if it is not deliberately an assault, getting the nose under the camel's tent to try to ban all abortions, to try to say that women should not have the right to make this choice, to try to say that the men and women in this Chamber have more to say about a woman's health choice than she does herself, then why did the conferees, the members of the conference, remove the non-binding language that said this did not attack *Roe v. Wade*? Because they were a little more honest. The Senate was a little more honest than the people in this House are being. They recognize this for what it is, an attack on *Roe v. Wade*, and, frankly, the majority Members of the House also wanted to remove that language, and they were honest the day before yesterday.

So, Mr. Speaker, the current Supreme Court clearly considers this unconstitutional. A future Supreme Court packed with reactionary appointees by the President might not. This puts at risk the right of women to choose. And the fundamental question here is, as it has always been, there are fundamentally different religious views about when life begins, about what is appropriate and what is not appropriate, and we are all entitled to our views, be they motivated by religion or moral fervor or whatever. What we are not entitled to do is to use the force of law to impose the religious views of some people on other people who do not agree with that and to say to a woman they must risk their life, they must risk their health because we do not think it is right for them to have an abortion. That is what this is about.

□ 1230

That is what this is about. The right to choose is the key right here, and this bill is a direct assault on that. Therefore, we ought to oppose it. It will be a sad day when this House passes this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the distinguished majority leader, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I want to thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for the work, long, long work that he has placed into this bill. The people of the United States owe the chairman a great debt; and more importantly, children owe the gentleman a great debt for his work on this issue.

Mr. Speaker, at the end of this long debate that actually began 10 years ago, the opponents of the Partial-Birth

Abortion Ban Act tell us that this bill will not save a single life. And I think we have to admit, it is a limited bill. After all, when we pass this bill, abortion will stay legal, its practitioners will remain in business, and heaven will still be crowded with America's invisible orphans. But its limitations are beside the point. Because like the children it protects, Mr. Speaker, the Partial-Birth Abortion Ban Act may be small, but not insignificant.

Make no mistake about it: our action today represents a big pivot in America's difficult answer to the abortion question. After a generation of bitter rhetoric, the American people have turned away from the divisive politics of abortion and embraced the inclusive politics of life.

Over the last 10 years, Americans on all sides of the abortion debate have learned about the partial-birth abortion procedure. They have recoiled at its barbarism and decided it has no place in a moral society. They have called on us to answer the muted cries of the innocent. Their message to us today and our message to the world is very simple: we can do better. For pregnant mothers, however desperate; for unborn children, however unwanted; and for our compassionate Nation, however divided. America can do better for them all, starting with the overdue prohibition on this cruel, dangerous, and medically unnecessary procedure.

But this, I say to my colleagues, is not a day of celebration. Passing this bill will be a victory, to be sure, but a victory for humanity, not just one side of this debate. It will be a victory for the democratic process, which the American people have engaged one heart at a time, not through the heat of public argument, but through the warmth of private conversation. And it will be a victory for a Nation of good and honest people who brought to this debate a thoroughly American respect for every opinion and for every life.

America can do better, Mr. Speaker, and by passing this bill today, at long last, we will.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today to speak out loudly in opposition to the conference report on S. 3 and to urge my colleagues to vote against the report.

Once again, we have before us an unconstitutional and harmful bill. This bill would prevent doctors from being able to perform medically-necessary abortions. The government would prohibit doctors from acting to protect her patient's health, intruding into the doctor-patient relationship. The Supreme Court recognized this inequity and has already made such a law unconstitutional.

The leadership in this body insists that we ignore the Constitution and vote on this bill. Proponents of this bill refused to allow an exception for cases in which the mother's health was seriously at risk, and they refused to include language affirming the long-standing Supreme Court decision, *Roe v. Wade*.

Let's forget about the rhetoric we've been hearing from the proponents of this bill and talk about the truth. For us to be true to the

Constitution, to be true to the sentiments of equality and freedom, women and must have control over their bodies. Instead, proponents of this bill, including the Bush Administration, are using this bill as part of a broader agenda to take away a woman's Constitutionally guaranteed right to choose. This assault on a woman's right to control her body and her health must stop. I urge my colleagues to vote no on the Conference Report.

Mr. OBERSTAR. Mr. Speaker, this is a landmark day for those who, for more than 30 years, have worked to reduce the number of abortions performed in America. With today's vote on the Conference Report to accompany S. 3, The Partial-Birth Abortion Ban Act, we are finally closing in on the first statutory restriction on abortions—that is, other than appropriations restrictions—since the 1973 Supreme Court decision in *Roe v. Wade*.

I urge our colleagues in the other body to join the House in quickly passing the Conference Report and sending it to the President for signature.

This is also a good day for the legislative process, the art of compromise. Today we set aside our differences on various nuances of abortion and move by a decisive vote to ban a particular procedure, which—regardless of our differing views on the findings of *Roe v. Wade*—most of us find repugnant.

Because of what we do here today, there will be fewer abortions, more adoptions, and more healthy births in years to come in the United States. I take great comfort in that knowledge.

I am distressed, however, that so much of our legislative action the past 30 years in this body on the question of abortion has not had that result, but has instead polarized the views of those on both sides of the issue, while the number of abortions has continued to climb.

Today we take a step in the opposite direction. Instead of dividing, we have come together and have agreed that there should indeed be fewer abortions, at least with respect to this procedure. I sincerely hope that the comity we have achieved on partial birth will extend, in the future, to other aspects of the abortion issue.

Today I am proud of this body and proud of the process by which we serve our constituents.

Mr. BUYER. Mr. Speaker. I rise in support of this conference report to ban partial birth abortions. This is a good bill and a good day, though a long time in coming.

This measure bans a procedure in which a living fetus is partially delivered from the womb, and then destroyed prior to the completion of delivery. This is a particularly appalling procedure in which the difference between a complete birth and an abortion is a matter of a few inches in the birth canal.

There is an exception in the bill for instances in which the life of the mother is at risk and no other procedure will be sufficient to preserve the mother's life. Congress has conducted extensive hearings on this procedure. The medical evidence presented at these hearings indicates that a partial birth abortion is not necessary to preserve the health of the mother and is, in fact, dangerous to the mother. Partial birth abortion is "not an accepted medical practice." This procedure offends most Americans who value the sanctity of life.

Partial birth abortion is a particularly cruel and inhuman procedure which should be

banned. I urge the adoption of the conference report.

Mr. STARK. Mr. Speaker, I rise in strong opposition to this deceptive and dangerous conference report S. 3, brought to the floor today to ban what anti-choice lawmakers claim to be the so-called "partial-birth" abortion procedure. There is no medical procedure called a "partial birth" abortion. It is a political term, not a medical one. That is why what's happening today is so dangerous.

If this bill becomes law, it will be the first time since *Roe v. Wade* that performing an abortion procedure will be deemed a criminal act. Even more alarming, it will be the first time in this nation's history, that Congress will have ever banned a particular medical procedure. Make no mistake about it, what this bill does is put Congress in the position of making life and death medical decisions appropriately left to physicians.

Instead of dealing with the more pressing issues of the day—like the 44 million people who lack health insurance in this country, the 9 million people without jobs, or bringing our troops safely home from the war in Iraq—we are instead debating a safe medical procedure that is used only in very rare instances when a doctor determines it is the only procedure that can best protect the life or health of the woman.

In 2000, the Supreme Court struck down a Nebraska abortion ban, identical to this bill, as unconstitutional in *Stenberg v. Carhart*. The court found that the law unconstitutionally burdened a woman's right to choose by banning safe abortion procedures; and it lacked the constitutionally required exception to protect women's health. Both these constitutional flaws remain the bill before us today. This bill still lacks any health exception and remains vague so that it may be used to ban other safe abortion procedures in the future.

Anti-choice lawmakers have made claims today that the majority of Americans are in favor of banning what they understand to be partial birth abortions. But, a recent ABC News poll, found that 61% of Americans were in fact opposed to this legislation when they are informed that it lacks a health exception for a woman.

The most telling argument in this debate comes from our nation's medical community. They oppose this legislation. The American Medical Association, the American College of Obstetricians and Gynecologists, the American Medical Women's Association, the American Nurses Association and the American Public Health Association all oppose this ban. They know full well that it will override their medical decision-making in an unprecedented and potentially life-threatening way.

I believe that a woman's right to choose is a private and very personal choice, and should continue to remain that way. Women's decisions about their reproductive health—especially when it comes to something as personal as abortion—should be between a woman, her family and her physician—not the U.S. Congress.

I ask my colleagues to stand up for the privacy of women and oppose unwarranted interferences in their personal decisions. I also ask my colleagues to recognize that the vast majority of us in Congress have no medical training and are in no way qualified to choose among particular medical procedures. Doctors should be making medical determinations, not politicians. Vote no on this bill.

Mr. VAN HOLLEN. Mr. Speaker, I rise today in strong opposition to the so-called "partial birth abortion" legislation before us today.

Neither the Congress nor the courts should tell a woman how to manage her health or reproductive care. Unfortunately, what should be a private matter between a woman and her doctor has become a political football.

Doctors, not politicians, should decide which surgical procedures are appropriate when a woman's health is in jeopardy. The anti-choice proponents of the bill have used highly misleading statements to cloak the true purpose of this bill—which is to scare doctors and deny women the right to choose a safe and legal abortion.

Here are the facts:

The bill does not ban only one procedure. "Partial-birth" is a political term, not a medical term. These bans are designed to inflame the abortion debate through heated, graphic rhetoric. In describing what is banned, the bill does not reference a recognized, established medical procedure. It does not exclude other procedures. In fact, the bill's language is deliberately vague, banning safe and common procedures.

The bill is not a "late term" abortion ban. Because the bill lacks any mention of fetal viability, it would ban abortions throughout pregnancy. In *Roe v. Wade* and its companion case, *Doe v. Bolton*, the Supreme Court held that a woman has the right to choose legal abortion until viability. The Court said that states may ban abortion after that time, as long as exceptions are made to protect a woman's life or her health. In fact, 41 states have laws that address post-viability abortions. The legislation now before Congress is designed, in part, to deceive lawmakers and the American public about when abortions occur. Don't be fooled.

The bill is not constitutional. In 2000, the Supreme Court found Nebraska's so called "partial birth" abortion ban unconstitutional in *Carhart v. Stenberg*. The Court found that: (1) the law unconstitutionally burdened a woman's right to choose by banning safe abortion procedures; and (2) it lacked the constitutionally required exception to protect women's health. These flaws are present in the bill now before Congress. The bill still lacks any health exception, and its deliberately vague language still bans more than one procedure.

These bans are not supported by the medical community. Contrary to repeated anti-choice claims, the American Medical Association does not support this legislation. Furthermore, respected health organizations such as the American College of Obstetricians and Gynecologists, the American Medical Women's Association, the American Nurses Association and the American Public Health Association oppose these bans.

I urge my colleagues to reject this bill that turns back the clock on women's rights in this country.

Mr. VITTER. Mr. Speaker, today the House of Representatives is set to vote on the conference report on S. 3, the Partial-Birth Abortion Ban Act. After a number of years and several attempts, the best chance for success in finally outlawing this gruesome procedure is here before us today.

I believe abortion has no place in our society. Partial-birth abortion is a procedure clearly beyond the pale. Even the medical community has said that this procedure is, in fact, never

medically necessary. For all of the rhetoric from the other side about doctors and health care, we should listen to that medical bottom line and today ban this horrific procedure. Those who have seen it firsthand, those who understand it and have researched it, know that we are talking about something so close to infanticide.

This conference report before us respects what the Supreme Court has told Congress about past bans, and we have worked to address their concerns in the best and most thorough manner. This conference report is constitutional, well-thought out, and has tremendous support nationwide.

I strongly support this conference report and urge my colleagues to do so as well. Furthermore, I am happy to say that for the first time since *Roe v. Wade* passed, some 30 years ago, a restriction on abortion is finally going to be put into place.

I would like to express my appreciation to the many grassroots organizations who worked so hard on this issue for years, to fellow members of Congress who diligently kept working on a resolution, and to President Bush for his support of this legislation and his promotion of life.

Mrs. CUBIN. Mr. Speaker, "We hold these truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are life . . ." The Declaration of Independence tells us this.

We are created—life is created and the womb is where that miracle of life develops. Biology tells us this.

It is immoral and illegal, in America, to deliver a baby for the sole purpose of taking this child's life, under the guise of a medical procedure. The legislation at hand tells us this.

We fight wars in the name of protecting human rights. We serve with human rights organizations all over this world, standing up for those who can't defend themselves and for those who are robbed of what many of us take for granted. It should be no different here today, with this very issue.

So we are not here to talk about reproductive choices. We are here to talk about preserving human life and protecting the most defenseless among us from suffering a barbaric death.

Human life should never be taken in the name of mere convenience—to do so is among the grossest of human rights violations. That is why partial-birth abortions should be banned. It is long overdue.

I support the rule, I support the conference report and I look forward to the day it is signed into law to protect the lives of the most helpless victims of violence in our country—our children.

Mrs. TAUSCHER. Mr. Speaker, I am submitting this statement for the RECORD as a sign of my strong disapproval for what we are about to do. As a pro-choice, pro-child mother and Member of Congress, I believe that abortions should be safe, legal, and rare.

For more than a quarter-century, the Supreme Court has drawn a clear line on this issue.

As Americans and lawmakers, we are bound by the Constitution—and we must realize that an all-out ban on late-term abortions fails to meet the "life and health of the mother" standard the Supreme Court established in *Roe* and upheld in both *Casey* and *Webster*.

The bill we have before us today does not take into consideration the health of the mother. The Supreme Court has found similar laws unconstitutional and will do the same with this one.

If the bill banned all late-term abortions, but allowed for the constitutionally required exception when it would be necessary to save the mother's life or avert serious health consequences, then I would support it.

The anti-women's health majority that continues to push this legislation is putting their own convoluted political agenda above the health concerns of women and above the law. The choice whether or not to have an abortion is a private and personal decision. It should be made between a woman, her family, her doctor, and her God. The federal government has no business interfering.

I strongly object to this bill and urge all of my colleagues to vote "no" and defeat it.

Mr. GRAVES. Mr. Speaker, I come to the floor today to speak in support of the Partial Birth Abortion Ban. I support this legislation because I support life. I believe that life begins at conception and I will continue fighting to protect our unborn children.

Partial birth abortions are wrong. Under Federal law "live birth" occurs when a baby is expelled from the mother. During a partial birth abortion the baby is pulled out feet first until the head is the only part in the mother's body, then the baby is brutally murdered. Most partial birth abortions occur in the second trimester, when the child will actually gasp for air when removed from their mother.

As a father of three I support all pro-life measures. I understand how precious and beautiful life is, and I am dedicated to protect life at all stages of development. All children should be welcomed in life and protected by law, and as long as I am in a position to fight, I will continue to fight for life.

Mr. TERRY. Mr. Speaker, I rise in strong support of the conference report for the Partial Birth Abortion Ban Act of 2003 (H.R. 760/S. 3).

I am proud to support the effective compromise that has been reached on behalf of thousands of women and children in our nation. Enacting this legislation has been a long, hard road for many dedicated Members of Congress and concerned citizens across America. I commend Chairman CHABOT for his tireless efforts to debate and pass this legislation, and President Bush for his commitment to sign it into law to protect human life.

The grisly facts of the partial-birth abortion procedure are well known. Suffice it to say that the life and value of a child should not hinge on 3 inches—the 3 inches before a child takes its first breath or before a child meets the abortionist's knife. Partial-birth abortion has visited untold horror upon thousands of women and children since its inception. It would be impossible to count the physical and emotional cost of this procedure for the women who have experienced it, much less the little children who are killed before they have a chance at life.

One such experience merits recounting because of its undeniable message for the protection of human life. In 1993, a nurse practitioner named Brenda Pratt Shafer was working in an abortion clinic. She was a pro-choice nurse who quit her job the day after she witnessed a partial-birth abortion. She told Members of Congress that "what I saw is branded

forever on my mind . . . the woman wanted to see her baby [after the procedure], so they cleaned up the baby and put it in a blanket and handed the baby to her. She cried the whole time, and she kept saying, 'I'm so sorry, please forgive me!' I was crying too. I couldn't take it. The baby boy had the most perfect, angelic face I have ever seen." Her testimony stands as a powerful witness for every Member of Congress to vote to ban this procedure in our nation.

Another significant testimony comes from a doctor who was asked to care for a baby who had undergone a partial-birth abortion and was still breathing. Dr. Hanes Swingle wrote his eyewitness account for the *Washington Times*: "I admitted this slightly premature infant [to the Neonatal Intensive Care Unit]. His head was collapsed in on itself . . . I did my exam (no other anomalies were noted) . . . then pronounced the baby dead about an hour later. Normally, when a child is about to die and the parents are not present, one of the staff holds the child. No one held this baby, a fact that I regret to this day. His mother's life was never at risk." Dr. Hanes concluded that partial-birth abortions must be banned "simply because it is the right thing to do."

Three years ago, the Supreme Court ruled 5 to 4 that my home state of Nebraska's ban on partial-birth abortion was unconstitutional. Justice Scalia wrote in his dissent that "the notion that the Constitution prohibits the States from simply banning this visibly brutal means of eliminating our half-born posterity is quite simply absurd." Passage of the conference report today will clearly show that the Congress stands with Justice Scalia and the many other Americans who respect the sanctity of human life.

It amazes me that in the year 2003, the United States still permits this procedure—this act of death. The Alan Guttmacher Institute, the research arm of Planned Parenthood, reported this year that the number of partial-birth abortions performed in our nation tripled between the years 1996 and 2000. Estimates were that about 650 such abortions were performed in 1996, and now 2,200 are performed annually.

Former President Clinton shamed our nation and broke faith with women and children by twice vetoing the Partial-Birth Abortion Ban Act. I am proud that President Bush will reverse this record and uphold the promise of human life and dignity in America. I urge all of my colleagues to join him in this goal by voting for the conference report on the Partial-Birth Abortion Ban Act.

Mr. BLUMENAUER. Mr. Speaker, one of my fundamental principles is that government not interfere with the basic freedoms for individuals and their families. A basic freedom is the health of women, which necessarily includes reproductive health choices.

This legislation threatens that freedom by inappropriately intervening in the decision making of patients and their doctors. It goes beyond restricting the procedure. It ignores real needs of women and their families. This procedure has long been accepted and is at times the only practice available to protect a woman's life and her ability to safely have a healthy baby in the future.

Years ago when we first started debating this legislation, I was struck by real cases of real families that would be devastated by this amendment. Sadly, nothing has changed. Real families would still be devastated.

The broad language is likely to be used as a wedge in further eroding reproductive choices. No one can predict what this Supreme Court will do, let alone a future one. This language would fly in the face of a previous ruling against Nebraska's legislation and could be a vehicle for judicial reinterpretation which would further restrict reproductive freedom. This legislation is part of an insidious ongoing assault to erode reproductive freedoms and would perpetuate a trend, as shocking as it is unfortunate, of Congress imposing its theology on our citizens regardless of people's own strongly held beliefs and individual needs.

Earlier this Congress, because of the Republican leadership's theological clash with science, voted to make it illegal to use potentially life saving therapies to help with Alzheimer's- and Parkinson's-like degenerative and traumatic diseases leaving people crippled and dying. The vote was not just to deny scientific research here, but deny the benefits if developed anywhere else. They would make all our loved ones suffer in their zeal to make a point.

People who oppose abortion should not have one. Nothing would make me happier than for every woman to have the knowledge, well-being, medical care and luck so that there would never be a need for an abortion. Until such a day comes, it is wrong to prevent a woman's doctor from offering professional skills so that she and her family can determine the safest and most appropriate medical care.

Mr. SOUDER. Mr. Speaker, it has now been more than a decade since partial-birth abortion was first exposed for the horrific and violent act that it is. In that time, tens of thousands of healthy babies have been brutally killed as they exited the birth canal—just moments from their first breath.

Then, as now, the details of the partial-birth abortion procedure led to public outrage among the American people. The most recent poll on this issue found that 70 percent of the public favors the ban we will vote on today.

How can it be that it has taken more than 10 years to ban a procedure so many Americans find outright repugnant and immoral? Twice, Congress has passed similar legislation, only to be voted by the previous administration.

Today, I am grateful for the courageous stand of our current president, President George W. Bush, who, earlier this year in his State of the Union Address, called on Congress to pass the ban on partial-birth abortions. It is an honor to serve alongside this great president, and I look forward to his quick signature on this bill.

As we consider the partial-birth abortion ban conference report today, I'd like to address some of the misconceptions being circulated by those opposed to this bill.

Planned Parenthood, NARAL and others are claiming S. 3, The Partial Birth Abortion Ban Act, will "halt safe, pre-viability abortions from occurring, which violates a woman's right to choose." This is simply false. S. 3 was crafted carefully to ensure its constitutionality. It addresses the concerns cited in the Supreme Court's *Stenberg v. Carhart* decision, which struck down Nebraska's ban on partial-birth abortion, that the definition of partial-birth abortion was too vague and could prohibit a common abortion procedure known as dilation and evacuation abortions. Today's bill corrects any potential for misinterpretation by specifically defining partial-birth abortion as:

The person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus.

Secondly, some proponents of partial-birth abortion are advocating for a "health" of the mother exception in the bill. Such an exception is unnecessary, as the findings in the bill point out. The first section of S. 3 contains Congress's 14 factual findings that, based upon extensive medical evidence compiled during congressional hearings, a partial-birth abortion is never necessary to preserve the health of a woman. In fact, the highly regarded American Medical Association has said the procedure is "not good medicine" and is "not medically indicated" in any situation. A more narrow "life of the mother" exception is included in the bill, which would allow partial-birth abortions in cases where it is necessary to save the life of the mother.

As we vote on final passage of the Partial Birth Abortion Ban Act today, let us keep in mind the faces of the babies whose lives might be saved as a result of this bill. Many newspapers around the country have recently run stories about new 4-D ultrasound technology that is able to photograph very real-life pictures of the baby in the womb. Gracing the tops of the stories have been pictures of a perfectly formed baby in the womb with a smile on her face. The baby looks so different than it does just a short time later after its birth. Who could possibly look at these pictures and still support the killing of such beautiful babies by the violent death of scissors being stabbed in the baby's head?

The long-awaited passage of the Partial Birth Abortion Ban Act today is a historic event, the answer to much prayer, and the result of the work of thousands of heroes across this country. I thank my colleagues in the House, Congressman CHABOT, and Chairman SENSENBRENNER, for their dedication to passing this bill. I also thank our House Leadership for making this bill a priority for so many years. Finally, I urge my colleagues to support this conference report and end the reprehensible procedure known as partial-birth abortion.

Mr. MILLER of Florida. Mr. Speaker, I rise today in strong support of the Partial Birth Abortion Ban Act. I commend Mr. CHABOT and Sen. SANTORUM for introducing this important legislation, and the conferees for their leadership in protecting the life of the unborn.

As elected representatives, banning what is probably the most hideous medical procedures that could ever be performed may be one of the most important things we can do.

Mythical reports by a few journalists indicate that partial-birth abortions are generally performed in cases in which the baby has profound disorders or the mother faces a dire physical threat.

But hard facts indicated that this horrific practice is far more common than its proponents will admit. In truth, this piece-by-piece abortion is performed thousands of times annually, and the vast majority are performed on healthy babies of healthy mothers.

It must be outlawed.

Today, many will repeatedly give us the details of this so-called "medical procedure."

Instead, I would refer my colleagues to these medically accurate images. Doctors have described to us how the baby is pulled partly out of the mother's body, only inches from a completed birth and how an abortionist inserts scissors into the skull creating a hole where the baby's brain can be suctioned out. We have all seen pictures of the lifeless body pulled from the mother and tossed away like trash.

After seeing this, why debate? Partial Birth abortion is murder—the devil is in the details. This isn't about a woman's right to choose. This is about a child's right to live. And no compassionate person wants to see a woman suffer the personal tragedy of abortion. Women deserve better than partial-birth abortion.

I would say that the choice is simple, but there is no choice inherent in our duty to ensure that the sanctity of human life is never compromised. The unborn child has no voice and cannot protect itself. It is up to all of us to guarantee their voices are heard and their right to life is protected.

I urge my colleagues to help protect the lives of the most innocent, helpless and defenseless among us and support the Partial Birth Abortion Ban Act.

Mr. SMITH of Texas. Mr. Speaker, I support S. 3, the "Partial Birth Abortion Ban Act of 2003."

This bill prohibits a heinous and inhumane procedure. Partial birth abortions are a procedure in which a fully viable child is killed just inches from being fully delivered.

This procedure is inhumane and barbaric, and has no place in a civilized society.

Also, a partial birth abortion is not safe for women, and is never necessary to preserve the health of the mother. Unlike other abortion procedures, partial birth abortion involves killing a child that is no longer in the womb.

I strongly support the passage of this conference report.

Mr. CONYERS. Mr. Speaker, today we are once again considering a deceptive, extreme, and a blatantly unconstitutional attempt to sensationalize the abortion debate through heated rhetoric. If this bill passes today it will be the first time since the passage of *Roe v. Wade* that the Congress will steal the right of women and their families to decide matters of their own health care in consultation with their doctors. This is not just an issue of women's rights anymore—this is an issue of preserving the privacy of all Americans to keep the government out of their Doctor's office.

Just three years ago, the Supreme Court decided *Stenberg v. Carhart*, in which the Court held unconstitutional a Nebraska statute banning so-called "partial-birth" abortions.

The Court invalidated the Nebraska law for two independent reasons: (1) it did not contain an exception to protect the health of the woman, and (2) it placed an "undue burden" on a woman's right to choose by banning the most common type of 2nd-trimester abortion procedure.

S. 3 shows complete disregard for the Court's decision in *Stenberg* and suffers from the same two constitutional defects. It's as if the drafters went out of their way to thumb their nose at the Court.

First, there is no question that S. 3 lacks an exception to safeguard women's health, which the Supreme Court unequivocally said was a fatal flaw in any restriction on abortion.

Even the Ashcroft Department of Justice recognizes that, in order for any abortion regulation to be constitutional, it must contain an exception to protect the woman's life and health.

This legislation attempts to justify its lack of a health exception by summarily asserting in the bill's "findings" that the banned procedure is "never medically necessary." Not only are these findings demonstrably false, they do nothing to rehabilitate the bill's unconstitutionality.

Much as the drafters may wish it to be otherwise, Congress cannot make a law constitutional simply by making "findings" that contradict the direct holding of a Court decision.

Simply stated, the bill's failure to include an exception to protect women's health will make it "Dead On Arrival" the minute it is challenged in court.

Second, the bill's definition of "partial-birth abortion" is so vague, overbroad, and internally contradictory that it would ban safe, pre-viability abortions in violation of woman's right to choose.

But even if the bill covered only a single, late-term abortion procedure—which it does not—the bill would still endanger women's health by banning a procedure that the American College of Obstetricians and Gynecologists has recognized "may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman."

Congress should not take decisions about medical treatment out of the hands of doctors and families. But that is exactly what this bill sets out to do.

This legislation is a facially unconstitutional attempt to roll back a woman's right to choose. Fifteen pages of erroneous "findings" cannot change this sow's ear into a silk purse and rehabilitate this bill that puts politics ahead of women's health.

Mr. GOODLATTE. Mr. Speaker, I rise in strong support of the conference report on S. 3, the ban on the procedure known as partial birth abortion. I was appalled when I learned of the partial birth abortion procedure and have been working diligently to abolish it ever since. This heinous procedure involves partially delivering fully formed babies, and then killing them. It is one of the most horrible forms of abortion practiced. The difference between abortion and murder is literally a few inches. I believe that there is no justification for this brutal and heartless procedure, and only the most calloused among us can hear the description of this procedure and not react with disgust.

We must act now to ban this appalling procedure and protect the innocent unborn from violent deaths. A vote in favor of the conference report on S. 3 will stop the killing of innocent children and will send a message to the world that our Nation views life as a sacred and precious gift.

The overwhelming majority of the American people want to ban partial-birth abortions and no matter what your position is on abortion, this grisly procedure is indefensible in a civilized society. Thus, this vote on the conference report on S. 3 gives all of us an opportunity to join together in protecting innocent children from this horrific and gruesome procedure.

S. 3 is effective legislation to ban an unbelievably gruesome act. I urge each of my col-

leagues to support this legislation and to protect those who cannot protect themselves.

Mr. HOLT. Mr. Speaker, I rise in strong opposition to this bill, this so-called partial-birth abortion ban. It continues a troubling tendency that we have seen over the last few years for Congress to try to practice medicine.

Every day, patients make medical treatment decisions that are difficult, that are unpleasant, that are even dangerous and matters of life and death. Surely pregnant women deserve the same opportunities to decide with their doctors the best course of treatment. However, this bill denies women such opportunities and restricts their ability to access safe and appropriate health care. Furthermore, doctors who determine that the banned procedure is the most appropriate treatment will be subject to criminal sanctions simply for providing their patients with the best medical care.

All of us like to see fewer abortions performed in this country, and that is why I support education and prevention programs to help families avoid unwanted pregnancies. But the question of whether or not to have an abortion is one of the most difficult decisions any woman can face. Reproductive health care is a very personal, ethical, and medical matter that should be left to individuals, their doctors, and their families without interference from the government.

Proponents of this bill allege that it will protect life. In reality, it will jeopardize the health of women across this nation. Mr. Speaker, this legislation should be rejected.

Mr. CRANE. Mr. Speaker, I rise in strong support of the Partial-Birth Abortion Ban Act of 2003. By passing this legislation today the House will take its final step towards banning the truly horrifying practice whereby an innocent life is taken in a most gruesome way. The House has passed legislation in each of the last four Congresses banning partial-birth abortions. In the 104th and 105th Congresses, President Clinton vetoed the partial-birth abortion bans.

During this procedure, which is used in second and third trimester abortions, the infant's body is delivered, leaving only the head in the womb. At that point, the abortionist pierces the back of the infant's skull with a sharp instrument and then proceeds to vacuum out the infant's brain tissue, thus collapsing the skull, allowing the now-dead infant's body to be extracted.

Some opponents of this legislation have argued that they fear for the health of the mother in an emergency. I can assure them that this procedure is never used in a real emergency, because it takes three days to prepare and complete this procedure.

This legislation makes it a federal crime for a physician, in or affecting interstate commerce, to perform a so-called partial birth abortion, unless it is necessary to save the life of the mother. Under H.R. 760, anyone who knowingly performs a partial-birth abortion would be subject to fines and up to two years in prison. The bill provides that a defendant could seek a hearing before the state medical board on whether his or her conduct was necessary to save the life of the mother, and further provides that those findings may be admissible at trial.

Mr. Speaker, I urge my colleagues to vote in favor of this very important legislation. Thanks to President Bush, this Congress finally has an opportunity to ban the gruesome

procedure without the threat of a presidential veto. By passing S. 3 today, we will finally be able to protect innocent babies who, through no fault of their own, have their lives taken.

Mr. WELDON of Florida. Mr. Speaker, I rise today to voice my strong support for the Partial Birth Abortion Ban Conference Report. For 9 years, I have been coming to this floor and speaking out against this barbaric procedure, so it is with great joy that I rise today in support of this bill knowing that we finally have a President who stands ready to sign this bill into law.

I first learned of this procedure 10 years ago, in 1993, when I was still practicing medicine. After a long day of seeing patients in my office, I opened the American Medical News and saw this procedure described. I was shocked, not only by its flagrant violation of the sanctity of human life, but its brutality. How could such an awful procedure be legal in this country? Now 10 years later, after years of House and Senate votes and vetoes by former President Clinton, we will finally see a ban on partial birth abortion signed into law.

The procedure is simply abhorrent. The mother is subjected to 3 days of slow inducement. Then the child's head is left in the mother's womb until the abortionist kills the child by puncturing the back of the child's neck. If the baby's head were 3 inches further out of the birth canal, this practice would be called murder.

Critics of a partial-birth abortion ban have asserted that the ban could endanger the life and/or health of the mother, but such is not the case. Even the American Medical Association has said that this procedure is not good medicine and is not medically indicated in any situation.

This procedure is clearly barbaric. It is unnecessary under any circumstance, and the legality of the procedure is an affront to the founding principles of this Nation. I remind my colleagues that we have come this far, we cannot stop short of doing what's right. Let's send this bill to President Bush's desk with the message that these lives are worth saving.

Ms. HARMAN. Mr. Speaker, I rise today in strong opposition to the conference report to ban so-called partial-birth abortions.

Regrettably, Congress poised to pass, and the President is prepared to sign, a bill that can only be described as unconstitutional.

I urge my colleagues not to be deceived by this legislation.

Partial birth is not a medical, factual, or legal term. Let's be frank—it is a political term.

This is not a debate about so-called partial-birth abortion or late-term abortion. This is a debate about efforts to roll back a woman's constitutional right to choose whether or not to have an abortion.

The so-called partial birth abortion ban contained in this bill is intended to erode the protections of Roe v. Wade and I believe will be found unconstitutional by the courts.

Even the sense of the Senate language included in the Senate-passed bill reaffirming Roe v. Wade has been stripped out of this bill.

Supporters of this bill argue that language defining the partial-birth abortion procedure has been tightened and that findings included stating that the procedure is never necessary to protect a woman's health.

This is simply smoke and mirrors. The bill is unconstitutional for the same reasons the Supreme Court struck down similar laws. Women

are entitled to the right to the safest abortion procedure available. To ban one particular procedure is to deny women—in consultation with their doctor—that right.

Just as its authors intended, this bill would apply well before viability, banning a safe method of abortion that is often used in the second trimester.

In addition, it fails to include language providing an exception to protect the health of the mother.

I am distressed that more than 30 years after the Supreme Court's historic Roe decision, we are considering legislative measures that could revert us back to the time of dangerous back alley abortions.

Before voting, I hope that my colleagues will remember the struggles women faced before Roe.

Let us not forget the women who were injured or who died from unsafe procedures. This bill could well return us to that era again.

I urge my colleagues to uphold a woman's constitutional right to choose by voting against final passage of this conference report.

The SPEAKER pro tempore (Mr. SHIMKUS). All time having expired, without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 281, nays 142, not voting 12, as follows:

[Roll No. 530]

YEAS—281

Aderholt	Camp	Duncan
Akin	Cannon	Dunn
Alexander	Cantor	Ehlers
Bachus	Capito	Emerson
Baker	Carson (OK)	English
Ballenger	Carter	Etheridge
Barrett (SC)	Castle	Everett
Bartlett (MD)	Chabot	Feeney
Barton (TX)	Chocola	Ferguson
Bass	Clyburn	Flake
Beauprez	Coble	Fletcher
Bereuter	Cole	Foley
Berry	Collins	Forbes
Biggert	Cooper	Ford
Bilirakis	Costello	Fossella
Bishop (GA)	Cox	Franks (AZ)
Bishop (UT)	Cramer	Frelinghuysen
Blackburn	Crane	Gallegly
Blunt	Crenshaw	Garrett (NJ)
Boehlert	Crowley	Gelbach
Boehner	Cubin	Gibbons
Bonilla	Culberson	Gilchrest
Bonner	Cunningham	Gillmor
Bono	Davis (AL)	Gingrey
Boozman	Davis (FL)	Goode
Boyd	Davis (TN)	Goodlatte
Bradley (NH)	Davis, Jo Ann	Gordon
Brown (SC)	Davis, Tom	Goss
Brown-Waite,	Deal (GA)	Granger
Ginny	DeLay	Graves
Burgess	DeMint	Green (WI)
Burns	Diaz-Balart, L.	Gutknecht
Burr	Diaz-Balart, M.	Hall
Burton (IN)	Dingell	Harris
Buyer	Doolittle	Hart
Calvert	Doyle	Hastert

Hastings (WA)	McIntyre	Ross
Hayes	McKeon	Royce
Hayworth	McNulty	Ruppersberger
Hefley	Mica	Ryan (OH)
Hensarling	Michaud	Ryan (WI)
Herger	Miller (FL)	Ryun (KS)
Hill	Miller (MI)	Sandlin
Hinojosa	Miller, Gary	Saxton
Hobson	Mollohan	Schrock
Hoekstra	Moran (KS)	Sensenbrenner
Holden	Murphy	Sessions
Hostettler	Murtha	Shadegg
Houghton	Musgrave	Shaw
Hulshof	Myrick	Shays
Hunter	Neal (MA)	Sherwood
Isakson	Nethercutt	Shimkus
Istook	Neugebauer	Shuster
Janklow	Ney	Simpson
Jefferson	Northup	Skelton
Jenkins	Norwood	Smith (MI)
John	Nunes	Smith (NJ)
Johnson (IL)	Nussle	Smith (TX)
Johnson, Sam	Oberstar	Souder
Jones (NC)	Obey	Spratt
Kanjorski	Ortiz	Stearns
Kaptur	Osborne	Stenholm
Keller	Ose	Strickland
Kelly	Otter	Stupak
Kennedy (MN)	Oxley	Sullivan
Kennedy (RI)	Pascarell	Sweeney
Kildee	Paul	Tancredo
King (IA)	Pearce	Tanner
King (NY)	Pence	Tauzin
Kingston	Peterson (MN)	Taylor (MS)
Klecza	Peterson (PA)	Taylor (NC)
Kline	Petri	Terry
Knollenberg	Pitts	Thomas
LaHood	Platts	Thornberry
Lampson	Pombo	Tiahrt
Langevin	Pomeroy	Tiberi
Latham	Porter	Toomey
LaTourette	Portman	Turner (OH)
Leach	Pryce (OH)	Turner (TX)
Lewis (CA)	Putnam	Upton
Lewis (KY)	Quinn	Visclosky
Linder	Radanovich	Vitter
Lipinski	Rahall	Walden (OR)
LoBiondo	Ramstad	Wamp
Lucas (KY)	Regula	Weldon (FL)
Lucas (OK)	Rehberg	Weldon (PA)
Lynch	Renzi	Weller
Manzullo	Reyes	Whitfield
Marshall	Reynolds	Wicker
Matheson	Rogers (AL)	Wilson (NM)
McCotter	Rogers (KY)	Wilson (SC)
McCrery	Rogers (MI)	Wolf
McHugh	Rohrabacher	Young (AK)
McInnis	Ros-Lehtinen	Young (FL)

NAYS—142

Abercrombie	Engel	Majette
Ackerman	Farr	Maloney
Allen	Fattah	Markey
Andrews	Filner	Matsui
Baca	Frank (MA)	McCarthy (MO)
Baird	Frost	McCarthy (NY)
Baldwin	Gonzalez	McCollum
Ballance	Green (TX)	McDermott
Becerra	Greenwood	McGovern
Bell	Grijalva	Meehan
Berkley	Gutierrez	Meek (FL)
Berman	Harman	Meeks (NY)
Bishop (NY)	Hastings (FL)	Menendez
Blumenauer	Hinchey	Millender-
Boucher	Hoeffel	McDonald
Brady (PA)	Holt	Miller (NC)
Brown (OH)	Honda	Miller, George
Brown, Corrine	Hoolley (OR)	Moore
Capps	Hoyer	Moran (VA)
Capuano	Inslee	Nadler
Cardin	Israel	Napolitano
Cardoza	Jackson (IL)	Olver
Carson (IN)	Jackson-Lee	Owens
Case	(TX)	Pallone
Clay	Johnson (CT)	Pastor
Conyers	Johnson, E. B.	Payne
Cummings	Jones (OH)	Pelosi
Davis (CA)	Kilpatrick	Price (NC)
Davis (IL)	Kind	Rangel
DeFazio	Kolbe	Rodriguez
DeGette	Kucinich	Rothman
Delahunt	Lantos	Roybal-Allard
DeLauro	Larsen (WA)	Rush
Deutsch	Larson (CT)	Sanchez, Linda
Dicks	Lee	T.
Doggett	Levin	Sanchez, Loretta
Dooley (CA)	Lewis (GA)	Sanders
Edwards	Lofgren	Schakowsky
Emanuel	Lowey	Schiff

Scott (GA)	Tauscher	Watson
Scott (VA)	Thompson (CA)	Watt
Serrano	Thompson (MS)	Waxman
Sherman	Tierney	Weiner
Simmons	Towns	Wexler
Slaughter	Udall (CO)	Woolsey
Smith (WA)	Udall (NM)	Wu
Snyder	Van Hollen	Wynn
Solis	Velazquez	
Stark	Waters	

NOT VOTING—12

Boswell	Evans	Kirk
Brady (TX)	Gephardt	Pickering
Dreier	Hyde	Sabo
Eshoo	Issa	Walsh

□ 1254

Mr. BALLANCE and Mr. GONZALEZ changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PICKERING. Mr. Speaker, on rollcall No. 530 I was unavoidably detained. Had I been present, I would have voted "yes."

APPOINTMENT OF CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. REGULA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2660) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from Ohio?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2660, be instructed to insist on section 106 of the Senate amendment regarding overtime compensation under the Fair Labor Standards Act.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Wisconsin (Mr. OBEY) and the gentleman from Ohio (Mr. REGULA) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, the House bill does not contain and the Senate Labor HHS bill does contain an important provision which affects millions of American workers. That provision would preclude

the Department of Labor from issuing any regulation that takes away overtime protection from workers who currently qualify for that protection. It would protect rights that workers in this country have had since the enactment of the Fair Labor Standards Act of 1938.

Under the Senate provision, the Department of Labor could proceed with its ongoing rulemaking process and modify the overtime regulations. Example: The department could proceed with making a long-overdue inflation adjustment that guarantees overtime protection for certain low-income workers earning \$22,100 a year.

□ 1300

The Department of Labor says that this will result in an additional 1.3 million workers receiving overtime. I do not know if that estimate is right, but we agree with this provision. We, in fact, think that it would add far fewer number of workers than does the Department of Labor. The only shortcoming we see with it is that it does not go far enough and does not even keep pace with inflation, full adjustment to match inflation would require the department to increase the salary threshold in the rule to at least \$27,560.

The Senate provision also would not stop the department from clarifying the overtime regulations to update them for the 21st century. For example, by eliminating an anachronistic terms such as "straw boss" or "gang leader" or eliminating job classifications which no longer exist such as "teamster". Do not tell that to the Teamsters Union, however.

The Senate provision would provide the same protections to newly hired workers as to current workers. It does not grandfather in current workers but ensures the same overtime protections to all workers in a job classification.

Mr. Speaker, there is general agreement that workers are going to lose overtime protection under the administration's revised regulation. The question is how many will lose that protection? By some estimates as many as 8 million workers who are currently protected will lose that protection. Even if the Department of Labor concedes that a minimum of 644,000 workers currently covered would lose that protection and could be forced to work overtime without being compensated. Whether the number is 644,000 or 8 million, Mr. Speaker, the Bush administration should not put American workers in the position of being forced to work more than 40 hours a week without being paid overtime.

So to reiterate, the Senate provision would simply stop the Department of Labor from issuing a regulation taking away overtime protections from workers who currently have them. The Senate provision is absolutely essential to protect workers' overtime rights. It is not enough that more than 3 million workers have lost their jobs since this administration has taken office. Now

the administration apparently wants to cut the pay of a number of workers who still have jobs by cutting their overtime protections. That is clearly not right. It is not fair. I do not think that the public would support it, and I would urge a yes vote on the motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the operative word here as stated by the gentleman from Wisconsin (Mr. OBEY) is they "apparently." Well, they have not finished this procedure. The Department of Labor has received 80,000 comments on the proposed change. What they are trying to do is to bring the rules on overtime into the new century. It has been over 50 years since the present rules were promulgated and the department thinks it is important to take a look in relationship to today's world, today's communications, today's structures of our labor programs that would be realistic.

I think one of the things that I want to put to rest is that this will affect certain groups. I have here a letter from the national president of the Fraternal Order of Police writing on behalf of the members of the Fraternal Order of Police to advise of their opposition to the motion to instruct. What they are saying is let us look, let us take these 80,000 comments and see what makes sense and is fair to everyone concerned. The Secretary of Labor is approaching it from that point of view. What is fair.

Likewise, it has been said that the nurses would come under this because they have do a lot of overtime and, again, the Nursing Executive Watch, a publication that goes to nurses says, "Contrary to popular belief, changes to overtime regulations won't affect nurses."

So, again, it is an effort by the Department of Labor to look at regulations that have been in place more than 50 years and say what is fair, what makes sense in 2003 and thereafter.

Now, there is another risk involved in all of this and that is the fact that the administration's leadership, the executive branch, has said they would recommend a veto.

Well, what would be the result of a veto? We would be living on a continuing resolution without increases voted by this House in support of the Labor, Health and Human Services, Education Bill, increases in the amount of money for many good programs. And let me tell you a few of these:

Special education gets an extra increase of \$1 billion in the Labor H bill. Title I, which is designed to help children from low income homes gets an increase of \$650 million. Reading programs, and we hear more and more evidence that reading is such a vital part of the education of any individual. They use scientific evidence to help